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Des Moines, Iowa 50319

The
Iowa
**Attorney
General's**
Report
on

www.iowaattorneygeneral.org

Secondhand

Smoke



Department of Justice

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May 2003

Dear Fellow Iowan:

Secondhand smoke is the third leading cause of *preventable* death in this country, killing 53,000 nonsmokers each year. For every eight smokers who die of tobacco-related disease, one nonsmoker also dies. Approximately 500 Iowans die each year from disease caused by secondhand smoke -- more than die from accidents, AIDS, suicide, homicide or illegal drugs.

This report is designed to provide an Iowa-specific starting point for those wanting to learn about, and work on, this important issue. We hope the report will be a useful tool for health educators, local governments, schools, businesses and others as they consider how their practices affect public health and how changing those practices can increase public awareness about the risks of breathing secondhand smoke.

This report is not meant to prescribe how you achieve change. Each community's state of readiness is different. In general, successful communities have engaged in a series of activities beginning with purely informational activities and then progressing through campaigns for clean indoor air in schools and workplaces before moving on to places like restaurants and bars.

Help is available to conduct this educational process in your community. Various forms of assistance are available from my office and other organizations listed within the report.

Finally, I wish to thank the American Legacy Foundation for partial funding of this report and other activities to help educate the public about the serious risk of secondhand smoke.

Sincerely,

A handwritten signature in black ink that reads "Tom Miller". The signature is fluid and cursive, with the first name "Tom" and last name "Miller" clearly distinguishable.

Tom Miller
Iowa Attorney General

Table of Contents

The Iowa Attorney General's Report on Secondhand Smoke

I	Health Risks of Secondhand Smoke: a summary of the volumes of scientific research demonstrating the danger of secondhand smoke	Page 1
II	The Fight For Clean Indoor Air: a report on actions taken in Iowa and in other parts of the country to address the issue of secondhand smoke	Page 12
III	Coalition Building For Change In Your Community: an introduction to effective coalition-building techniques to achieve change in public opinion	Page 27
IV	Legal Issues: a guide to Iowa law, a model ordinance and the preemption issue .	Page 35
V	Economic Issues: a summary of research on the economics of clean indoor air initiatives	Page 51
VI	Evaluation: an opportunity for you to tell us if this report has been helpful	Page 54

Acknowledgments

A wealth of information has been created on the subject of secondhand smoke over the last decade. There are volumes upon volumes of scientific studies, economic reports and strategic planning manuals written as our knowledge about this subject grows. In fact, so much written material has been produced that staying current with it all has become a problem -- especially for people with other full time jobs.

The purpose of this report is to pull together as much of that information as possible into one Iowa-specific resource. This report relies heavily on information and research conducted by several of the leading organizations working on this subject. Specific or unique information is credited throughout the text. General recognition should also be given to the groups working to disseminate this information nationally. This report particularly relies upon information from the American Nonsmokers' Rights Foundation, the American Cancer Society, the Tobacco Law Project at the William Mitchell College of Law, and the Campaign for Tobacco Free Kids. We thank them all for the important work they are doing.

Because information in this report may need to be updated over time, the report will be maintained at the Iowa Attorney General's web site: www.iowaattorneygeneral.org

Please note that the law related section of this report is not intended as a substitute for legal advice. Please consult with an attorney about specific legal questions.

When used throughout this report the term secondhand smoke (SHS) refers to a mixture of the smoke given off by the burning end of a cigarette, pipe, or cigar and the smoke exhaled from the lungs of smokers. [*U.S. Environmental Protection Agency.*]. Other terms with the same meaning, such as passive smoking, or environmental tobacco smoke (ETS), are sometimes also used in the discussion of clean indoor air issues. The authors of this report prefer the use of the term secondhand smoke, although the other terms are occasionally used when quoting from or referencing the work of others.

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I Health Risks of Secondhand Smoke

There is no question that:

- Secondhand smoke kills nonsmokers.
- Secondhand smoke is harmful even in very small quantities.
- Nonsmokers are exposed to more secondhand smoke than they may think.

1 Secondhand Smoke Kills Nonsmokers.

Secondhand smoke is the third leading cause of preventable death in this country, after primary smoking and alcohol abuse. It kills 53,000 nonsmokers in the U.S. each year. – about 500 of them Iowans. [Glantz, S.A. & Parmley, W., "Passive Smoking and Heart Disease: Epidemiology, Physiology and Biochemistry," *Circulation*, 1991; 83(1):1-12; and, Taylor, A., Johnson, D. & Kazemi, H., "Environmental Tobacco Smoke and Cardiovascular Disease," *Circulation*, 1991; 96:699-702]. Premature death from secondhand smoke is twice as likely as dying from a car accident and nearly 15 times more likely as dying in a fire. [Pion, 1997 as quoted in "The Complete ETS Policy Manual: A North Carolina Environmental Smoke Policy Manual", University of North Carolina School of Medicine.] It kills more Americans every year than does drug abuse and causes the same number of deaths per year as those that died in the Vietnam War. [Circulation, 1991 as quoted in "The Complete ETS Policy Manual: a North Carolina environmental smoke policy manual" University of North Carolina School of Medicine.] It is more than 10 times the Iowa homicide rate. For every eight smokers who die of tobacco related disease, one nonsmoker also dies.

(There are numerous studies estimating the number of deaths from secondhand smoke. The results are consistently in the range of 40,000 - 60,000+ deaths. We choose the 53,000 number because it comes from a study comparing data from all the various studies. You will also see the number 62,000 used by some organizations which is also well justified. [Wells, A.J. "Passive Smoking as a Cause of Heart Disease." *Journal of the American College of Cardiology*. 1994.]

A An outline of the major research.

There is a rapidly expanding body of research that confirms the harm caused to nonsmokers by secondhand smoke. The landmark research is briefly described below:

In 1986, two landmark reports were published, one by the United States Surgeon General and the other by the Expert Committee on Passive Smoking, National Academy of Sciences' National Research Council. [U.S. Surgeon General. *The Health Consequences of Involuntary Smoking*. U.S. Department of Health and Human Services, 1986.] Both reports concluded:

- Secondhand smoke causes lung cancer in healthy adult nonsmokers;
- Children of parents who smoke have more respiratory symptoms and acute lower

respiratory tract infections, as well as evidence of reduced lung function, than do children of nonsmokers; and

- Separating smokers and nonsmokers within the same air space may reduce but does not eliminate a nonsmoker's exposure to secondhand smoke.

In 1992, the U.S. Environmental Protection Agency (EPA) confirmed these findings in its study on the respiratory health effects of secondhand smoke. The report was a compilation of 30 epidemiological studies. It concluded that there is a strong correlation between secondhand smoke and lung cancer and estimated that secondhand smoke is responsible for 3,000 lung cancer deaths per year of non-smoking Americans. [*U.S. Environmental Protection Agency, Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders, December, 1992.*]

In 1997, the California Environmental Protection Agency conducted a comprehensive assessment of the range of health effects connected with secondhand smoke exposure. [*California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997.*] The results were published in 1999 by the National Cancer Institute as part of its Smoking and Tobacco Control monograph series in *Health Effects of Exposure to Environmental Tobacco Smoke*. In that study, secondhand smoke was found to have significant associations with heart disease, cancer, respiratory illness, and developmental effects such as low birth weight and Sudden Infant Death Syndrome.

In June, 2002, the International Agency for Research on Cancer, part of the World Health Organization, reported on their review of all significant published evidence related to tobacco cancer and smoking, both active and involuntary. This was an international study, involving scientists from twelve countries. For the research, the results of previous studies involving millions of people were combined. The scope of this review allowed a more complete, long term view of the effects of smoking and of secondhand smoke than had been possible in previous smaller studies. The research found conclusively that secondhand smoke is cancer-causing in humans. [*International Agency for Research on Cancer, World Health Organization. June, 2002.*]

B Harm caused by secondhand tobacco smoke. What does the research show?

Harm to adults:

- **Heart disease.** Nonsmokers regularly exposed to secondhand smoke have a 30 percent higher rate of death due to heart disease than unexposed nonsmokers. For women, the risk is even higher. Nonsmoking women who are regularly exposed to smoke in either their workplaces or their homes have a 91% higher risk of heart attack than those who are not subjected to smoke. Nonsmoking women who are only occasionally exposed to smoke have a 58% higher risk. [*Circulation (American Heart Association Journal), May 1997.*]
Secondhand smoke speeds hardening of the arteries. Nonsmokers who are exposed to secondhand smoke on a daily basis develop atherosclerosis, or

hardening of the arteries, 20% faster than people who are not regularly exposed to secondhand smoke. *[Journal of the American Medical Association, January, 1998.]*

- **Stroke.** Nonsmokers who are exposed to secondhand smoke on a regular basis have an 82% greater chance of suffering a stroke. *[British medical journal Tobacco Control, August, 1999]*
- **Lung Cancer / Nasal and Sinus Cancer.** The connection between secondhand smoke and many forms of lung and nasal sinus cancer has long been well established. *[1986 Report of the Surgeon General, the 1987 National Research Council report Environmental Tobacco Smoke: Measuring Exposures and Assessing Health Effects, and the 1991 U.S. Environmental Protection Agency report Respiratory Health Effects of Passive Smoking: Lung Cancer and other Disorders established that secondhand smoke exposure causes lung cancer; California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997.]* Secondhand smoke is responsible for a 20% increase in lung cancer in nonsmokers. *[California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997.]*

A recent Mayo Clinic study of more than 41,000 postmenopausal Iowa women provides new evidence that the most common type of lung cancer in women is more closely linked to tobacco smoke than previously recognized. Lung cancer, the leading cause of cancer death in women, killed about 68,000 women in 2000. Adenocarcinoma, which accounts for 40% of lung cancer in women, had been linked to unknown risk factors other than tobacco because it strikes women who have never smoked but the study found that the cancer is more closely linked to tobacco smoke than previously thought. *[December 15, 2002 American Journal of Epidemiology].*

- **Other Cancers.** Secondhand smoke has also been found to cause cancer of the uterus, liver and kidneys. *[International Agency for Research on Cancer, World Health Organization. June, 2002.]*

Harm to children:

- **Sudden Infant Death Syndrome (SIDS).** There is a long known correlation between maternal smoking during pregnancy and SIDS. Research now shows that babies of mothers who smoke are more than twice as likely to die of SIDS than children of nonsmoking mothers. The risk triples for those infants who were exposed both during pregnancy and after their birth. *[Center for Disease Control and Prevention (1997). Fact Sheets on Childhood Diseases and Conditions: What You Should Know About Sudden Infant Death Syndrome (SIDS) in the Child Care Setting; Anderson H.R., Cook, D.G. (1997). Passive smoking and sudden infant death syndrome: review of the epidemiological evidence. Thorax; 52:1003-1009; California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997. National Cancer Institute, Health Effects of Exposure to Environmental Tobacco Smoke, December, 1999.]*
- **Decreased birth weight.** Secondhand smoke adversely affects fetal growth and development. Low birth weights are associated with many well recognized problems for infants and is strongly associated with perinatal death. *[California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997.]*

- **Respiratory infections.** Because children's lungs are just developing, they are particularly vulnerable to the damage caused by secondhand smoke. Children who have been exposed to tobacco smoke have more frequent colds, chronic respiratory symptoms, pneumonia and bronchitis. *[California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997. U.S. Environmental Protection Agency (Dec. 1992). Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Office of Research and Development, Washington, D.C.]*
- **Asthma.** Secondhand smoke not only causes children to develop asthma, but it also causes the conditions of children with asthma to worsen. Children with asthma who were exposed to secondhand smoke had both more asthma attacks and more severe attacks than those who were not exposed. *[U.S. Environmental Protection Agency. Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders, 1992; California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke, 1997.]* According to the American Lung Association, the prevalence of pediatric asthma has increased 100% from 1982 to 2000.
- **Lung cancer as adults.** High levels of exposure to secondhand smoke in childhood and adolescence account for up to 17 percent of adult lung cancers in nonsmokers. *[U.S. Environmental Protection Agency (Dec. 1992); Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Office of Research and Development, Washington, D.C.]*
- **Breast cancer as adults.** New research shows that women who start smoking in their teens are 70 percent more likely to develop breast cancer than non-smokers. Based on their findings, the researchers concluded that breast tissue is sensitive to cancer-causing agents during puberty when the breasts are developing. *[Study by the British Columbia Cancer Agency, Vancouver Canada as published in the October 5, 2002 issue of The Lancet medical journal.]*
- **Middle ear infections.** Secondhand smoke in children increases the prevalence of fluid in the middle ear – a sign of chronic middle ear disease. This results in an estimated 3.4 million cases per year. *[U.S. Environmental Protection Agency (Dec. 1992), Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Office of Research and Development, Washington, D.C.; Aligne A.C., Stoddard, J.J. (July 1997). Tobacco and Children, an economic evaluation of the medical effects of parental smoking. Archives of Pediatric and Adolescent Medicine; 151:648-653.]* Ear infections are the most common cause of deafness in children.
- **Fires.** Each year, among American children, tobacco is associated with an estimated 284 to 360 deaths from fires initiated by smoking materials and more than 300 fire related injuries. *[DiFranza, J.R. and Lew, R.A., "Morbidity and Mortality in Children Associated With the use of Tobacco Products by Other People," Pediatrics, Vol. 97, No. 4, April, 1996.]*

Estimated Annual Deaths and Illnesses in Nonsmokers Exposed to Secondhand Smoke

Illness or Disease	Number of People or Cases in the United States	Number of People or Cases in Iowa
<i>Effects on Infants and Children</i>		
Low Birth Weight	9,700 - 18,600 cases	97 - 186 cases
Sudden Infant Death	1,900 - 2,700 deaths	19 - 27 deaths
Middle Ear Infections	3,400,000 cases ¹ 700,000 - 1,600,000 doctor visits	34,000 cases 7,000 - 16,000 doctor visits
New cases of Asthma	8,000 - 26,000 new cases	80 - 260 new cases
Asthma Exacerbation (symptoms worsened)	200,000 - 1,000,000 cases	2,000 - 10,000 cases
Bronchitis or Pneumonia in Infants and Toddlers (18 months and younger)	150,000 - 300,000 cases 7,000 - 15,000 hospitalizations 136 - 212 deaths	1,500 - 3,000 cases 70 - 150 hospitalizations 1 - 2 deaths
<i>Effects in Adults</i>		
Lung Cancer	3,000 deaths	30 deaths
Heart Attack	35,000 - 62,000 deaths	350 - 620 deaths

[Adapted from California Environmental Protection Agency: Health Effects of Exposure to Environmental Tobacco Smoke (1997). Iowa estimates are based on Iowa being approximately one percent of U.S. population.]

2 Secondhand Smoke is Harmful Even in Very Small Quantities.

There is no “safe” level of exposure to secondhand smoke. Even occasional exposure to the thousands of chemicals and numerous cancer-causing agents found in secondhand smoke can significantly raise the risk of lung cancer and heart disease. *[National Cancer Institute, Health Effects of Exposure to Environmental Smoke, December, 1999.]*

Exposure to secondhand smoke for less than an hour can result in changes in blood chemistry even for a healthy person. Just a half hour of secondhand smoke exposure “abruptly reduced the CFVR (coronary flow velocity reserve) of nonsmokers”. This provides direct evidence of a harmful effect of passive smoking on the coronary circulation of nonsmokers, the

researchers said. *[JAMA 2001;286:436-63 as quoted in Chronic Disease Notes & Reports, Centers for Disease Control and Prevention, Fall 2001.]* In effect the study showed that nonsmokers' heart arteries showed a reduced ability to dilate, diminishing the ability of the heart to get life-giving blood. In addition, the same half hour of secondhand smoke activates blood platelets, which can initiate the process of atherosclerosis (blockage of the heart's arteries) that leads to a heart attack. *[Otsuka, R., et al., "Acute Effects of Passive Smoking on the Coronary Circulation in Healthy Young Adults," Journal of the American Medical Association, 286:436-411 (2001) (Burghuber, O., et al., "Platelet sensitivity to prostacyclin in smoker and nonsmokers." Chest, 90:34-38, (1986).]*

"Just a half-hour of passive smoking can increase a nonsmokers risk of heart disease. Passive smoking diminishes the oxygen-carrying capacity of blood and the ability of heart muscle to use the oxygen it receives. It causes thickening of arterial walls, especially the arteries that feed the heart and the brain. It raises the heart rate, lowers the level of protective H.D.L.-cholesterol, increases free-radical damage to heart muscle cells and increases the stickiness of blood platelets, fostering the formation of clots that can lead to heart attacks and strokes." *[A Jubilant Barroom Toast: To Smoke Free Air, Jane E. Brody, The New York Times Science, Tuesday, August 27, 2002.]*

3 Nonsmokers are Exposed to More Secondhand Tobacco Smoke Than They May Think.

A How you might be exposed.

Nine out of 10 nonsmoking Americans are exposed to secondhand smoke at least once every 2 to 3 days. A study examining the body's levels of cotine, a chemical the body metabolizes from nicotine, found that 88% of all nonsmokers were exposed to secondhand smoke at least two times a week. *[U.S. Centers for Disease Control (CDC), April, 1996.]*

According to the 2002 Iowa Youth Tobacco Survey by the Iowa Department of Public Health, 63 percent of Iowa middle school students and 74 percent of Iowa high school students report being exposed to secondhand smoke either indoors or while in cars during the seven days preceding the survey. *[Tobacco Youth Survey, Iowa Department of Public Health, October, 2002.]*

Being in a smoky environment is the same as smoking several cigarettes:

- ☆☆ Nonsmoking section of a restaurant = 1.5 cigarettes
- ☆☆☆ Pack-a-day smoker's home for 24 hours = 3 cigarettes
- ☆☆☆☆ Smoky bar for 2 hours = 4 cigarettes *[Katharine Hammond, Ph.D., University of California, Berkeley, School of Public Health.]*

A recent study at Columbus Children's Hospital found that even children whose parents smoked outdoors or in the garage, outside the home, have higher levels of cotine, a nicotine metabolite, in their bodies. *[Reported at the 2002 Pediatric Academy.]*

B Workers in smoky environments face even higher risks.

Many workers are exposed all day, every workday to high levels of secondhand smoke. In many of these cases it is not possible for them to change employment because of economic or other reasons. Workplace exposure to secondhand smoke causes more death and disease than all other regulated occupational substances combined. *[U.S. Environmental Protection Agency, Respiratory Health Effects of passive Smoking: Lung Cancer and other Disorders. 1992.]*

Restaurant and bar employees are at especially high risk for developing tobacco related illnesses. The levels of secondhand smoke in the smoking sections of restaurants are about 1 ½ to two times higher than those in typical office environments. In bars, the levels are 4 to 6 times higher. *[Siegel M. (1993). Involuntary smoking in the restaurant workplace: A review of employee exposure and health effects. Journal of the American Medical Association, 270(4):490-493.]*

As a consequence, nonsmokers who work in restaurants have 50% more lung cancer and 20-30% more heart disease than the nonsmokers in the general public. *[Siegel, M. Involuntary Smoking in the Restaurant Workplace: A Review of Employees Exposure and Health Effects. Journal of the American Medical Association, December, 1998].* Workers who have asthma and are exposed to secondhand smoke at work face double the risk of a fatal asthma attack. *[Hedley, A.J., McGhee, S.M. et al. Passive Smoking and Risks for Heart Disease and Cancer in Hong Kong Catering Workers. Hong Kong Council on Smoking and Health. May, 2001.]*

In one California study, the respiratory health of bartenders improved dramatically just one month after their workplace implemented a smoke-free policy. *[Siegel, M. Involuntary Smoking in the Restaurant Workplace: A Review of Employees Exposure and Health Effects: Journal of the American Medical Association, December, 1998.]* This study is further evidence of the harmful effect of secondhand smoke. While many studies show the harmful effects of introducing secondhand smoke to an environment, this one shows that removing the secondhand smoke has a beneficial effect. The two facts in combination show an even stronger scientific case for causality.

Young people are particularly vulnerable. More than half of Americans under age 35 are or have been employed in the food service industry. Nearly 40% of the fast food employees and nearly 25% of the customers are under the age of 18. *[Food Service News: 24 (August 1994).]*

4 What is Secondhand Smoke?

A What is in secondhand smoke?

Secondhand smoke is a complex mixture of nearly 5,000 chemical compounds, including over 50 that are known carcinogens. These include ammonia, acetone, arsenic, cyanide, formaldehyde, nicotine, tar, carbon monoxide, benzenes and methane. *[National Cancer Institute, Health Effects of Exposure to Environmental Tobacco Smoke, December, 1999.]*

The ordinary uses for the chemicals found in tobacco smoke are listed on the accompanying chart. *[Glantz, S.A. (1992). Tobacco, Biology & Politics. San Francisco, CA: Health Edco. Chart prepared by the Minnesota Department of Health and American Cancer Society - Minnesota Council. Minnesota ASSIST Project. October 1998.]*

Chemical	Use
Acetone	Nail polish remover
Acetic Acid	Vinegar
Acrolein	Industrial solvent
Arsenic	Poison
Butane	Cigarette lighter fluid
Cadmium	Rechargeable batteries
Carbon Monoxide	Colorless, odorless poison gas
DDT	Insecticides
Formaldehyde	Preserver of body tissue
Hexamine	Barbecue lighter
Hydrogen cyanide	Gas Chamber poison
Methane	Swamp gas
Methanol	Rocket fuel
Naphthalene	Mothballs
Nicotine	Insecticide
Nitrobenzene	Gasoline additive
Nitrous oxide phenols	Disinfectant
Polycyclic aromatic hydrocarbons	Diesel fumes
Toluene	Industrial solvent

B Secondhand smoke is a group A carcinogen. There is no safe level.

In 1992, the U.S. Environmental Protection Agency (EPA) classified secondhand smoke as a Group A Carcinogen - a substance known to cause cancer in humans. [U.S. Environmental Protection Agency, *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*, December, 1992.]

Group A Carcinogens:

- Arsenic
- Asbestos
- Benzene
- Environmental Tobacco Smoke
- Radon
- Vinyl Chloride.

There is no safe level of exposure to Group A toxins.

C Secondhand smoke has increased carcinogens when compared to the smoke a smoker inhales.

“Sidestream” smoke, which curls off the end of a smoldering cigarette, is the main

component of secondhand smoke and is different in composition from the “mainstream” smoke that smokers inhale directly. Smokers breathe in both “mainstream” smoke and “sidestream” smoke. Sidestream smoke contains higher concentrations of several known or probable human carcinogens.

The reason that sidestream smoke is actually more dangerous than the smoke inhaled by smokers is that some of the carcinogens in tobacco are “burned off” by the increased temperature when a cigarette is inhaled, i.e. when the cigarette glows. The cigarette and filter also remove some agents from mainstream smoke that are not filtered out of sidestream smoke. [U.S. Occupational Safety and Health Administration.]

Component	How Much More is in Sidestream Smoke
Polonium-210	1 to 4 times
Benzo(a)pyrene	2.5 to 4 times
Hydrazine	3 times
1.3 Butadiene	3 to 6 times
Benzene	5 to 10 times
N-nitrosopyrrolidine	6 to 30 times
Cadmium	7.2 times
Nickel	13 to 30 times
N-nitrosadimenthylamine	20 to 100 times
Aniline	30 times
2-Naphthylamine	30 times
4-Aminobiphenyl	31 times
N-nitrodiethylamine	up to 40 times
Source: U.S. Occupational Safety and Health Administration	

5 Tobacco Related Health Care Costs in Iowa.

A For adults.

The cost of health care for Iowa adults in 1993 that is directly attributable to tobacco use was \$709 million. This includes expenditures by Medicaid, Medicare and other public and private sources. It does not include amounts spent for people under age 19, psychiatric hospital care, or mental retardation nursing homes. [National Center for Tobacco Free Kids.]

B For children.

Nationwide, parental smoking has been estimated to cause direct medical expenditures of more than \$4.5 billion per year to care for smoking-caused problems of exposed newborns,

infants and children, as well as to treat birth complications. *[Aligne, C.A. & J.J. Stoddard, "Tobacco and Children: An Economic Evaluation of the Medical Effects of Parental Smoking," Archives of Pediatric Adolescent Medicine, 151:648-653 (July, 1997).]* Annual health care expenditures in Iowa for babies' health problems caused by mothers smoking or being exposed to secondhand smoke during pregnancy are estimated at \$ 20 to \$ 59 million. *[National Center for Tobacco-Free Kids, March 2, 2002.]*

C Expenditures and tax burdens per year in Iowa.

- All tobacco caused health expenditures in the state: \$709 million
- State and federal tax burden from tobacco caused health costs: \$ 310 million
- Each household's state and federal tax burden from tobacco caused health costs: \$280. *[National Center for Tobacco-Free Kids.]*

6 Designated Smoking Sections and Ventilation Issues.

A Designated smoking and nonsmoking sections in bars and restaurants do not protect nonsmokers from the dangers of secondhand smoke.

Following the basic laws of physics, secondhand smoke rapidly diffuses throughout a room. While the analogy may be distasteful, it has been said that allowing diners to smoke in designated sections of a restaurant is like allowing swimmers to urinate in designated sections of a swimming pool.

- As early as 1986, the Surgeon General's report concluded that the simple separation of smokers and nonsmokers within the same air space does not eliminate the exposure of nonsmokers to secondhand smoke. *[U.S. Surgeon General, The Health Consequences of Involuntary Smoking, Washington, D.C.; U.S. Department of Health and Human Services, 1986.]*
- Guidelines developed by the National Institute for Occupational Health and Safety (NIOSH) state: The most direct and effective method of eliminating ETS (environmental tobacco smoke) from the workplace is to eliminate smoking in the workplace. Until that is achieved, employers can designate separate, enclosed areas for smoking, with separate ventilation. Air from this area should be exhausted directly outside and not recirculated within the building or mixed with the general dilution ventilation for the building. *[Environmental Tobacco Smoking in the Workplace: Lung Cancer and Other Health Effects, "NIOSH Current Intelligence Bulletin 54, June 1991.]*
- At one air change per hour, it takes more than three hours for 95% of the smoke in a room to dissipate once smoking has ended. *[Repace, J., "Risk Management and Passive Smoking at Work and at Home, St. Louis University Public Law Review, 13(2):763-785, 1994.]*

B Ventilation systems do not protect nonsmokers from the dangers of second-hand smoke.

Ventilation systems may clear out the visible smoke, but the carcinogens remain. Even though you can't smell or see these toxins, they are still in the air. So even though the air may

look clean, it is not.

- The American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE), the group that sets indoor ventilation standards, reports that existing ventilation systems are not able to adequately remove all of the toxins found in secondhand smoke. *[American Society of Heating, Refrigerating and Air-Conditioning Engineers, Indoor Air Quality Position Statement, February 2000.]*
- Honeywell, makers of one of the ventilation systems touted by the tobacco industry, has been very clear that their product is designed for comfort and convenience and that they make no claims related to improving health and safety. “Honeywell has not in the past and does not make health hazard claims.” *[Janell Siegfried, Honeywell representative.]*
- Even Philip Morris has a disclaimer on its web site <http://www.pmoptions.com/> which states that its ventilation program does not purport to address health issues, but only odor and irritation. *[ANR Update, Volume 21, Number 2, Summer 2002]*
- Using current indoor air quality standards, ventilation rates would have to be increased more than a thousand-fold to reduce cancer risk associated with second-hand smoke to a level considered acceptable to federal regulatory agencies. Such a ventilation rate is impractical since it would require a tornado-force windstorm indoors. *[Repace, J. “Risk Management and Passive Smoking at Work and at Home, St. Louis University Public Law Review, 13(2);763-785, 1994.]*

Tobacco companies promote ventilation systems as an answer to the problem of second-hand smoke. Ventilation systems are not only ineffective, they also cost businesses thousands of dollars.

II The Fight for Clean Indoor Air

It is said that all truth passes through three stages:

- First, it is ridiculed.
- Second, it is violently opposed.
- Third, it is accepted as being self-evident.

1 The National Picture.

It is sometimes suggested that tobacco should simply be made illegal on the national level. If we knew then what we know now, it probably would be. But in the meantime we have a large population of addicted tobacco users that makes such a solution impractical. Moreover, a federal “top-down” approach would not likely be accepted by the public.

It is also sometimes suggested that action at the state level is the simplest or easiest way to achieve the goal of clean indoor air. Indeed some states such as California, New York and Delaware have achieved significant success at the state level but only after significant local efforts propelled the state action. In Florida, more than 70% of voters passed an amendment to the state constitution requiring smoke-free workplaces. Despite these success stories, state action is very difficult to achieve. The influence of big tobacco in state legislatures is significant. With only fifty state legislatures to monitor and influence, tobacco has been able to focus their lobbying efforts on state capitols to win significant support.

The answer is to create a change in the way society views clean air and tobacco use. And this is best done at the local level. The power of the tobacco industry is less at the local level where real democratic grassroots change begins. In acknowledgment of that fact, Walker Merryman of the Tobacco Institute said of local efforts in 1991, “It’s barely controlled chaos (at the local level). We can’t be everywhere at once.” *[Americans for Nonsmokers Rights Clean Indoor Air Resource Manual, April 2002, page 22.]*

The growth in local clean indoor air initiatives across the nation is significant. Americans for Nonsmokers’ Rights reports that in 1985 there were only 183 communities in the United States with clean indoor air ordinances but that by March of 2002, 2048 communities had adopted some form of local tobacco control ordinance. Of those, 1,331 adopted clean indoor air provisions in workplaces, restaurants, bars and other public places. (Other tobacco control provisions include youth access, excise taxes or advertising restrictions.)

New York City and Boston have each recently adopted bans on smoking in nearly all bars

and restaurants in those cities. New York City Mayor Michael Bloomberg said that the action will save the lives of 1,000 persons per year in his city and that it is “an idea whose time has come.” Other large cities considering bans include, as of this writing Dallas, Denver, Chicago, Bloomington, Indianapolis and Austin. It is notable that the prohibition of smoking in Boston bars was closely followed by the announcement of a ban in smoking in pubs in Ireland. It is hard not to think that if smoking can be prohibited in Boston bars and Irish pubs, it can be prohibited in restaurants and bars elsewhere.

Smaller communities are also acting. In the Midwest, Wisconsin has approximately eight communities with clean indoor air ordinances, Minnesota currently has four and Iowa two. In addition to these municipal or county ordinances, an uncounted myriad of other local provisions are coming into play including bans in schools, workplaces and public buildings.

The campaigns to achieve these successes are, in some ways, just as important as the result itself because they serve as an important tool for educating the community about the dangers of secondhand smoke. This educational process helps to change society’s norms and expectations about tobacco. And when public support has been won, then compliance is increased and enforcement is made easier.

But a decline in public support for smoking is exactly what the tobacco companies fear the most. They see that they are losing this war and are fighting a ferocious “rear guard” action of delay and fear. Despite those efforts, make no mistake that clean indoor air advocates are winning. If you remember when smoking was commonly accepted almost everywhere including in theaters and on airplanes, you can appreciate how far we have come. In the U.S., adult per capita cigarette consumption peaked in the early 1960's and has been in continual decline ever since. The question is not if clean indoor air advocates will win, it is how many lives will be lost while the campaign is waged.

2 Iowa Case Studies.

Iowa is very much engaged in this process of changing society’s expectations about the value of clean indoor air. Numerous communities, businesses and schools have adopted various measures to move toward a smoke-free environment. The following list demonstrates that there are many ways to promote education on the issue of clean indoor air and that you are not alone in your desire to work on clean indoor air as a matter of the public’s health. While it is not possible to make a completely comprehensive list of all the good things happening around Iowa, the following list should give you a few ideas about the progress that is being made in our state. The list is not complete and we apologize in advance to those communities doing great work that simply has not come to our attention.

A Sampling of Iowa Community Activities to Support Clean Indoor Air.

- **Ames / Ordinance.** Ames was the first community in Iowa to pass a clean indoor air restaurant ordinance. Although the ordinance contains “red light / green light” time-of-day provisions not recommended by most clean indoor air advocates, Ames deserves great credit for being the first community in the state to achieve a wide-spread smoking ban in restaurants. The local coalition continues work on the issue including planning to strengthen the ordinance in the future. Contact: George Belitsos 515-233-3141 or Ed Lewis 515-233-2874.
- **Ames / Iowa State University Dorms.** Beginning in the fall of 2002 all Iowa State University residence halls will be smoke-free. Smoking is still allowed outside of the residence halls and in some student apartments. University policy requires students to keep a reasonable distance from the smoke-free buildings when smoking. The ban was initiated by the student government and was voted on in the spring of 2002. Contact: Kate Bruns 515-294-7585.
- **Battle Creek - Ida Grove / Tobacco Free School.** In July 2002 the Battle Creek - Ida Grove school board adopted a tobacco free campus policy to go into effect September 1, 2002. Advocacy for the policy was generated by youth in the local Teens Against Tobacco Use (TATU) organization. Signs to aid in enforcement of the policy are being provided through the Ida County Community Partnership Contact: Superintendent Russ Freeman 712-364-3687.
- **Burlington / Smoke Free School Proposed.** The Burlington High School chapter of Students Against Destructive Decisions, SADD, in June, 2002 asked the school board to consider a policy which would prohibit smoking on school grounds, including sports venues, or in school district vehicles. School buildings in Burlington are currently smoke-free. The students collected 2,200 signatures of Burlington students and staff in support of the ban. A decision by the board is pending at the time of publication. Contact: Director of Human Resources Frank Shekleton 319-753-6791.
- **Cedar Falls / UNI Dorms.** Dormitories at the University of Northern Iowa became completely smoke-free in the fall of 2002. The movement towards the policy began several years ago by a student advisory group to the Department of Residence. Contact: Associate Director of the Department of Residence, Lyn Redington 319-273-2333.
- **Cedar Rapids / Ban in Taxi Cabs.** As the Cedar Rapids Gazette said in a May 3, 2002 editorial, “Look at what happened with the smoking ban in taxis, now one year old. Opponents claimed it would hurt business and that customers and drivers

wouldn't obey. Yet, as Wednesday's Gazette reported, it hasn't caused conflicts, business hasn't declined and cab owners say they have fewer burns in their upholstery." Discussion of the ban has led to mobilization of the community and increased youth involvement. Contact: Shelley Walker 319-365-1012.

- **Cedar Rapids / Smoke Free Dining Guide.** The Commit Tobacco Free Coalition of Linn County has published a "Smoke Free Dining Guide for Cedar Rapids" listing smoke free restaurants in the community. CAFÉ, a sub-committee of the coalition, has published an accompanying brochure "Clean Air For Everyone" that lists seven easy ways the public can get involved, i.e. sign a petition, talk to restaurant owners, send a letter to the editor etc. Contact: Shelley Walker 319-365-1012.
- **Cedar Rapids - Linn County / Ordinance Discussion.** Cedar Rapids and Linn County, Iowa are in the educational phase of a policy / ordinance campaign. The Cedar Rapids Mayor appointed a citizen task force to study the issue and make a recommendation to the Council. The Linn County Board of Health is also considering a county-wide secondhand smoke rule. Community forums are being conducted by the local CAFÉ organization and more than 4,000 signatures have been collected. Contact: Shelley Walker 319-365-1012.
- **Cedar Rapids / No Smoking in Schools Enforcement.** The local coalition sent letters to the 16 school Superintendents in Linn County asking for strong enforcement of smoking restrictions in the schools. In conjunction with this effort, they also sent educational materials to the school boards. Contact: Shelley Walker 319-365-1012.
- **Cedar Rapids / Workplace Survey.** CAFÉ in conjunction with the Linn County Health Department conducted a county-wide poll of employers to determine existing workplace smoking policies. Larger employers were found to have strong workplace smoking policies. Contact: Shelley Walker 319-365-1012 or Greg Slager of the Linn County Health Department 319-892-6000.
- **Clarinda / Correctional Facility.** The Clarinda Correctional Facility put a tobacco ban within the secure perimeter of the facility. The ban went into effect April 1, 2002. Previously the institution didn't permit tobacco use inside cell houses but did allow inmates to smoke in the prison yards. Violations of the old smoking policy by inmates were resulting in longer prison terms due to the loss of "good time." These violations have declined since the adoption of the more comprehensive ban. Previously inmates were taking apart light sockets to light cigarettes in their cells which increased maintenance costs and presented safety

risks to both inmates and staff. Facility physicians report fewer respiratory and asthma problems among inmates and staff since the new policy was instituted. Contact: Deputy Superintendent Cornell Smith 712-542-5634.

- **Creston / Tobacco Free School.** In Creston the use of tobacco on school property is prohibited in school buildings, parking lots, athletic fields and vehicles. Students have aided school officials in enforcement. Contact: Principal Todd Wolverton 641-782-2116.
- **Council Bluffs / Smoke Free Dining Guide.** The Pottawatomie County Tobacco Prevention Coalition has created a smoke free dining guide for Council Bluffs restaurants. Restaurants listed will also be presented with a window sticker from the coalition thanking them for their smoke free status. Contact: Annie Allen 888-323-6611.
- **Davenport - Quad Cities / Smoke Free Restaurant Recognition Program.** As part of a smoke free restaurant recognition program, Tobacco Free QC has published a smoke free dining guide for area restaurants. Smoke free restaurants also receive a certificate and window sticker to commend them for making this choice. These recognition packets are personally delivered to each food establishment. New editions of the dining guide will be published each year. Contact: JaNan Less 563-326-8618 x8857
- **Davenport - Quad Cities / Speakers Bureau.** Tobacco Free QC is in the process of creating a speakers bureau to provide education in the community regarding secondhand smoke. Presentation materials are being prepared for use by area doctors and other professionals. Contact: JaNan Less 563-326-8618 x8857.
- **Denison / Smoke Free School.** The Denison School District has adopted a policy for a completely smoke free campus. The local TATU youth organization is planning to push for stronger enforcement of the policy by collecting cigarette butts at local football games to measure success. They are also pushing for other second- hand smoke initiatives in the community. Contact: School Nurse Denise Cole 712-263-3101.
- **Des Moines - Four County Area. / Smoke Free Dining Guide, and Schools.** The Central Iowa Tobacco Free Partnership has created a smoke free dining guide listing 167 smoke free restaurants in the area. Release of the publication was the occasion for significant media activity including a kick-off event with the Attorney

General, a restaurant owner and a physician as speakers. Accompanying support materials such as certificates and window stickers help restaurants promote the fact that they are smoke-free. The Partnership is working to create regular publicized events featuring entertainment at a different smoke-free restaurant each time. Youth in the communities are also working for smoke free campuses at several area schools. Contact: Leanna Brady 515-278-5864.

- **Ft. Dodge - Webster County / Healthy Dining Guide.** The Webster County Health Department has issued a healthy dining guide listing the health related characteristics of area restaurants including whether the restaurant is smoke free. Contact: Vicki Gill, Director, Webster County Health Department 515-573-4107.
- **Grinnell / Ordinance** The Grinnell City Council is considering the adoption of a clean indoor air ordinance and a committee has been appointed to study the issue. Numerous educational activities preceded the discussion of the ordinance. A community forum has been held featuring local doctors an economist from the local college, and a business owner who believes that sales increased after the business went smoke-free. Approximately 1,300 signatures in support of an ordinance have been collected - an impressive percentage in a community of approximately 9,000 residents. A two-hour petition drive yielded about 700 signatures. As a result of these actions, some businesses and other institutions have voluntarily gone smoke-free. Action is expected on the ordinance sometime in the spring of 2003. Contact: Julie Coster 641-236-2411.
- **Grinnell / Smoke free ball park.** The Grinnell Youth Baseball and Softball Association passed a policy in August, 2002 to make the city ball park complex a smoke free facility. Contact: Julie Coster 641-236-2411.
- **Grinnell - Poweshiek County / Workplace Assessment and Assistance.** All Poweshiek County businesses and industries have been contacted by telephone survey to determine their workplace smoking policies. Educational materials are also provided to the businesses. When needed, advice is provided to establish or strengthen smoke free workplace policies. Contact Julie Coster 641-236-2411.
- **Iowa City / Ordinance.** The City of Iowa City was the second city in the state to pass a smoke free restaurant ordinance. The ordinance, which went into effect March 1, 2002, prohibits smoking in restaurants with 50% or more of their revenue from food, as opposed to alcohol. The ordinance will become more inclusive in 2004 when the percent changes to 35% or more. The ordinance was the result of a comprehensive two year campaign, beginning in December 1999. A study of restaurant openings and closings and sales tax data is underway in the community

to determine the economic effect of the ordinance. To date there have been no enforcement problems. Contact: Eileen Fisher 319-335-4224 for information about the ordinance and Dr. Chris Squier 319-335-7388 for information about the economic impact study.

- **Iowa City / UI dorms.** In August 1999 smoking was prohibited in all dormitories at the University of Iowa. Smoking bans had previously existed in other University buildings, including sports facilities. A study of the effects by the College of Dentistry at the University was released in June, 2002. The study demonstrates that the smoke free dorms had a significant role in reducing smoking rates among students. The study compared smoking rates at the University of Iowa over a ten year period with the University of Minnesota, a similar university that does not have smoke free dorms. The results showed that the "prevalence of cigarette smoking between 1991 and 1998 at the two universities showed remarkable similarity, increasing steadily from less than 24% in 1991 to over 40% in 1998. Thereafter, prevalence at UI declined markedly to 28.3% in 2001, whereas that at UM increased to 48.5% in 2000." The most recent survey of UI students, in October, 2002, shows a continuing decline in the prevalence of smoking to 25.3%. The researchers speculate that the decline in smoking among Iowa students is due in part to education efforts, the three-year-old ban on smoking in dorms, and publicity over the push to prohibit smoking in restaurants. A copy of the news release announcing the study results is available on the web at www.public-health.uiowa.edu/news/2002_archive/0619smoking-rates.html Contact: Sarah Hansen, Health Iowa program coordinator, 319-335-8387.
- **Jefferson County / Business Survey.** The Jefferson County Community Tobacco Partnership conducted a survey of 250 businesses during January and February, 2002 to learn about the businesses' tobacco policies. The information will be used to educate businesses about the benefits of smoke-free environments and to aide in planning. Contact: Timothy Hadley 641-622-2680
- **Johnson County / Smoke Free Dining Guide.** The Johnson County Smoke Free Coalition has created a Smoke Free Dining Guide for Johnson County. Guides for Iowa, Cedar, Linn and Washington Counties are also available on their website: www.cleanairforeveryone.org. Contact: Eileen Fisher 319-335-4224.
- **Knoxville / Tobacco Free School Policy.** The school last spring strengthened its smoking policy to prohibit tobacco use anywhere on school property including non-school sponsored activities. The push for the change came from concerned community members and students who are also studying the pursuit of the issue in

other area school districts. Contact: Marilyn Smith 641-828-2238 x234.

- **Marshalltown / Educational Forums.** The local Marshalltown youth group, GIFT (Guiding Individuals Fighting Tobacco) is conducting a series of educational activities such as community forums and school activities aimed at increasing awareness of the dangers of tobacco and secondhand smoke. Contact: GIFT Advisor June Ray 641-752-5421.
- **Newton / Smoke Free School.** Beginning July 1, 2002, the Newton Community School District Board of Education has banned tobacco at all school events. The policy bans all uses of tobacco on all school district facilities and grounds, regardless of whether school is in session, and does not provide for designating smoking areas at events open to the public. The policy applies to students, school employees and visitors and will be enforced in all facilities or grounds owned or used by the district, including the athletic stadium. More than a dozen high school students representing the anti-tobacco group Breath of Fresh Air (BOFA) advocated for the change. Contact: Jackie Black, Newton Community Schools, 641-792-5809.
- **Northwood / Northwood - Kensett Smoke Free School.** The Northwood - Kensett schools have adopted a totally smoke free campus including sporting venues such as the football field. To aide in enforcement of the policy, announcements are made during sporting events reminding guests of the no-smoking policy. Contact: Principal Keith Fritz 641-324-2142.
- **Ottumwa / Business Survey.** In June and July of 2002, the Wapello Community Action Team to Prevent Cancer conducted a survey of 479 businesses in Wapello County to determine their current policies regarding tobacco. Survey results will be used to help the businesses adopt better non-tobacco policies and establish a benchmark for future tobacco advocacy efforts. Contact: Jane Carr 641-682-8741.
- **Waterloo - Cedar Falls / Smoke Free Dining Guide.** The Black Hawk County Tobacco Free Coalition and “cia” (clean indoor air) coalition has published a “Waterloo / Cedar Falls 2002 Smoke Free Dining Guide.” The guide lists smoke free restaurants in the area and provides the facts on secondhand smoke. Response to the brochure has been so great, particularly from restaurants wanting to be included, that a second edition has been required after only several months. Businesses who adopt smoke free policies are recognized with a certificate from the Black Hawk County Tobacco Free Coalition and the Black Hawk County Board of Health to post in their establishment. Contact Brenda Gruber 319-235-2521 x423

- **Waterloo - Black Hawk County: Alternative To Suspension Program.** A youth cited for possession of tobacco may enroll in a class on tobacco issues as an alternative to suspension from school and legal penalties. Cessation classes are also offered. If they do not sign up for the class within seven days, the citation is delivered and a mandatory court appearance follows. The program has been in place for about four years and is considered a success. Contact: Brenda Gruber 319-235-2521 x423.

3 Polling Data.

Secondhand smoke is recognized as a problem by a majority of Iowans and Americans.

- 84% of Iowans, and 64% of Iowa smokers, agreed that people should be protected from secondhand smoke according to the 2001 IDPH Adult Tobacco Survey conducted by the Gallop organization.
- A survey by the Vernon Research Group, sponsored by the City of Cedar Rapids, Iowa, found that 65% of Cedar Rapids residents favor smoke free restaurants. [*Cedar Rapids Gazette, January 15, 2002.*]
- A survey of Ames residents conducted by the University of Iowa School of Social Work, Des Moines Education Center found that the majority of respondents were supportive of (53%) or neutral toward (12%) the Ames ordinance. Sixty-nine percent thought that secondhand smoke has a negative impact on nonsmokers.
- 71% of Americans see secondhand smoke as a serious health hazard according to a survey conducted for The Campaign for Tobacco Free Kids.
- 68% of Iowa City/Coralville residents polled believe secondhand smoke is a personal health risk. 83.8% of Iowa City/Coralville residents polled agree that separating smokers and nonsmokers does not eliminate the exposure of nonsmokers to secondhand smoke. 79.5% believe restaurant workers should not have to be exposed to second-hand smoke. 88% of Iowa City/Coralville residents polled prefer visiting businesses where there is no smoking. [*August 2000 survey by RMA, Inc.*]
- According to the 2002 Iowa Youth Tobacco Survey by the Iowa Department of

Public Health, 63 percent of middle school students and 74 percent of high school students report being exposed to secondhand smoke either indoors or while in cars during the seven days preceding the survey. *[Tobacco Youth Survey, Iowa Department of Public Health, October, 2002.]*

- In Minnesota, statewide research by the Minnesota Partnership for Action Against Tobacco, Blue Cross and Blue Shield of Minnesota and the Minnesota Department of Health show the following: 89% of all Minnesotans agree that secondhand smoke is harmful to adults. 95% of all Minnesotans agree that secondhand smoke is harmful to children. 81% of all Minnesotans, including 52% of current smokers, agree that secondhand smoke is annoying.

4 Organizational Support: What Is Being Done?

Several initiatives that are directly or indirectly related to secondhand smoke are already underway in the state. You are encouraged to contact these organizations for coordination, assistance or information.

- A Iowa Attorney General's Office / Secondhand Smoke Initiative:** Technical assistance, including speakers for meetings, planning assistance, spokesperson training and message training, are available from the Iowa Attorney General's Office through a grant from the Legacy Foundation. Contact: Bill Roach; Executive Officer; Iowa Attorney General's Office; Hoover State Office Building; 1305 East Walnut Street; Des Moines, Iowa 50319. 515-281-5536 broach@ag.state.ia.us.
- B Tobacco Free Iowa:** Work to support local initiatives on secondhand smoke in Iowa communities is being supported by the Tobacco Free Iowa organization under a grant from the Robert Wood Johnson Foundation. The American Lung Association is the fiscal agent for the grant which is also supported by the American Heart Association and the American Cancer Society. Contact: Tobacco Free Iowa, 5601 Douglas Avenue, Des Moines, Iowa 50310. 515-309-9507 or www.tobaccofreeiowa.org.
- C American Cancer Society:** Field staff from the American Cancer Society assist Iowa communities in a variety of cancer prevention initiatives including advocacy on secondhand smoke issues. Contact: Corinne Ertz, American Cancer Society, Midwest Division 800-ACS-2345.

D Iowa Department of Public Health / Community Tobacco Partnerships: The Iowa Department of Public Health, Division of Tobacco Use Prevention and Control, has provided grant assistance to 62 community partnerships to prevent tobacco use among youth and help pregnant women quit smoking. These partnerships represent all but five of Iowa's 99 counties. The Community Partnerships establish coalitions among businesses and organizations to promote anti-tobacco programs. These city or county-based community organizations are undertaking a variety of tobacco-related activities including youth programs, cessation programs, clean indoor air activities and collaborations with a wide variety of other community programs. The Division has also published a "Guide For Tobacco Free School Policies" which includes school-specific information and sample school policies. Contact Threase Harms-Hassoun 515-281-8857.

E Iowa Department of Public Health / Just Eliminate Lies. JEL coordinates the activities of Iowa youth united to fight industry efforts that try to manipulate them into using tobacco. The goals of JEL are to "change the general social attitude towards tobacco use, raise awareness through education, counter-market the tobacco industry's efforts, protect the rights of all from secondhand smoke, inspire and support cessation among the young tobacco user, and progress into a new age of informed decisions." Contact: Randi Huffman 515-281-4299.

F Iowa Department of Public Health / Tobacco Counter-Marketing Advertising Program. Counter-marketing strategies and advertisements have been developed to educate the public on the harmful effects of tobacco. The Division airs ads acquired from other states as well as ads produced locally, using JEL students as on-air talent to reach the target audience of youth and pregnant women. Ads are used on radio stations, as well as TV, billboards and mall signs. Contact: Kevin Arrowsmith 515-281-4768.

G Iowa Attorney General's Office / Tobacco Enforcement. The Attorney General's office has authority, on behalf of the Iowa Alcoholic Beverages Division, to directly prosecute retail permit holders who violate Iowa's tobacco laws by selling, giving or otherwise providing tobacco products or cigarettes to a minor, when city or county attorneys decline to pursue the violations.

The Attorney General's office provides advice and resources to local prosecutors who pursue civil sanctions locally against retailers who provide tobacco to minors. It also provides legal counsel to Alcoholic Beverages Division on questions of tobacco law and relevant tobacco-related issues. Finally, the Attorney General's office fields questions about the tobacco enforcement program from local law enforcement officials, local elected officials and staff, local and corporate retailers, and other interested citizens. Contact Donn Stanley, Assistant Attorney General,

Iowa Attorney General's Office, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319. 515-281-2480. dstanley@ag.state.ia.us

H Cessation Programs. Cessation can be an important component in secondhand smoke advocacy, especially in workplace environments. Many of the community partnerships referenced above have cessation programs as part of their offering of services. Counselors are also available statewide through Quitline Iowa at 1-866-U-CAN-TRY (toll free). Counselors are available from 8:00AM to midnight seven days a week.

I Resources Available on the Web: Further information is available from a wide variety of resources on the World Wide Web. Some of them follow:

National Resources:

Association for Nonsmokers' Rights Foundation www.no-smoke.org

Campaign for Tobacco Free Kids www.tobaccofreekids.org

Action on Smoking and Health www.no-smoking.org

American Cancer Society www.cancer.org/

American Lung Association <http://lungusa.org>

American Heart Association <http://americanheart.org>

Environmental Protection Agency <http://www.epa.gov/smokefree/index.html>

Centers for Disease Control <http://www.cdc.gov/tobacco>

National Institutes of Health - National Cancer Institute www.nci.nih.gov

California Department of Health Services <http://www.dhs.ca.gov/tobacco/>

Iowa Resources:

Iowa Attorney General's Office www.iowaattorneygeneral.org.

Tobacco Free Iowa <http://www.tobaccofreeiowa.org/>

Iowa Department of Public Health <http://www.idph.state.ia.us/tobacco/default.htm>

5 How Does The Tobacco Industry Respond?

The tobacco industry recognizes the “life and death” nature of a fight that goes to society’s insistence on clean indoor air and thus its very acceptance of tobacco. This awareness is demonstrated in the narrative of a Roper poll conducted for the tobacco industry in 1978. “What the smoker does to himself is his own business, but what the smoker does to the nonsmoker is quite a different matter... This we see as the most dangerous development yet to the viability of the tobacco industry that has yet occurred.” As early as 1993, smoking restrictions were estimated to decrease Philip Morris profit by \$40 million per year. *[Quoted in Corporate Affairs 1994 Budget Presentation” Philip Morris internal document. Bates Nos. 2045521070 - 2045521111, October 21, 1993.]*

The tobacco industry has been extremely adaptable and has virtually unlimited resources to apply to this task. Among the strategies used by the industry are:

- Attack the science. Create doubt or controversy about the health effects of secondhand smoke by paying for their own research or relying on anecdotal evidence. *[(Americans for Nonsmokers Rights Clean Indoor Air Resource Manual, April 2002, page 152.)*

- Create “front groups” like the California Business and Restaurant Alliance and the National Smokers Alliance. *(Americans for Nonsmokers Rights Clean Indoor Air Manual, April 2002, page 23.)*

- Form alliances with the hospitality industry that play on unfounded fear of economic loss and then organize sympathetic restaurant owners to oppose local ordinances that might affect them.

“I’ve learned from experience that as soon as I’m identified as a representative of the Tobacco Institute, I lose all credibility. They just sneer us away...so I try to work behind the scenes whenever I can.” *(Ron Saldana, West Coast Lobbyist for the Tobacco Institute quoted in LA Times, 8/24/86)*

- Shift the argument away from public health. This technique is demonstrated by the following quote from a Tobacco Institute memo which described the use of economists as

spokespersons for the tobacco industry: “Indeed, the economists can be most useful to the industry in shifting the debate on a piece of legislation away from the health argument (which TI cannot win) and toward a discussion of economics and public policy. This can only be accomplished, however, if the economists are representing some local interest other than the tobacco manufacturers.” [Bates #TIMNO 137228, January 31, 1985. Memo from Maureen Delanty to Fred Panzer, VP of Issues Management at the Tobacco Institute.]

- Support ordinances or laws that appear to be comprehensive but in fact include weak provisions, loop-holes or even preemption (*Americans for Nonsmokers Rights Clean Indoor Air Resource Manual*, April 2002, page 22)
- Resort to accommodation by supporting ordinances that appear to be fair to both smokers and nonsmokers through various accommodations compromises, i.e. allowing smoking at certain times of the day or upon the posting of certain signs or by the use of ventilation.

Weak ordinances or accommodation is favored by the tobacco industry because they are less effective. This was discussed in a Philip Morris internal memorandum that said, “Total prohibition of smoking in the workplace strongly affects industry volumes. Smokers facing these restrictions consume 11-15% less than average and quit at a rate that is 85% higher than average...Milder workplace restrictions, such as smoking only in designated areas, have much less impact on quitting rates and very little effect on consumption.” [Internal Memorandum from Philip Morris, Bates Nos. 2023914280/4284]

- Litigate to create fear or delay. For example, Philip Morris funded a lawsuit by a handful of restaurant owners in Ames opposing that city’s clean air ordinance. [*Americans for Nonsmokers Rights Clean Indoor Air Resource Manual*, April 2002, page 217 and 251]
- With encouragement from the tobacco industry, some businesses take the position that government should not tell them what they can and can’t do on their property. This argument ignores that government already regulates restaurants and other businesses regarding concerns over employee and customer health and safety. Government prohibits business owners from placing employees near exposed asbestos, lead paint chips, or radon. And government requires that foods be stored, prepared and disposed of in ways that do not promote disease. It is sometimes said that restaurants are already regulated from the door to the dumpster. And these regulations are present because of an overriding concern for public health. Secondhand smoke concerns should be treated no differently.

III Coalition Building For Change In Your Community

Numerous resources are available to help a community make the necessary plans to build an effective coalition to create public opinion change. It is not the intent of this section to provide a complete manual for community coalition building mobilization but rather to give an overview of the key components for such a plan.

It is important to understand that the campaign itself is as important as the result. The ultimate goal is the education of the community about the dangers of tobacco and secondhand smoke. Any specific action sought is a means to that goal not the achievement of it.

1 Attitudes.

The process is not easy. It requires new understandings and new attitudes on the part of many participants.

- The process requires patience. Many times we wish to achieve goals quickly and move on to the next challenge. The process of changing public opinion takes time and patience.
- While the process requires patience, it is also important to appreciate the powerfulness of the process. Participants must be willing to move from a position of perceived powerlessness to one of recognized powerfulness.
- The process requires a willingness to accept new partners and new ways of thinking. A successful campaign is an integration of many disciplines i.e. public health, media communications, community organizing. Few individuals or single groups bring all the needed resources to the table themselves.
- The process also requires an understanding that policy change often involves conflict. Most of us are conflict averse and the tobacco industry takes advantage of this desire to avoid conflict. We may not seek conflict but we must understand that it is part of the process.
- Finally, the process requires a willingness to adopt a methodical plan to achieve a mutually agreed upon goal and also having the patience to work towards that goal without skipping important steps along the way.

2 Process Steps.

It is generally agreed that a good community plan involves certain common elements. Those elements are best achieved over time and in a particular order. Several adjacent steps are usually occurring at the same time. However, it is generally a mistake to be doing something towards the end of the list before the foundation is laid by doing the necessary things at the beginning of the list. The following outline should provide some understanding of what is required for an effective educational campaign.

A Contact the state organizations listed on page 21 to tell them what you are doing. This will allow you to avoid duplicating work that may already be done. It will also connect you with valuable resources. Do not make public statements about your intentions at this time, particularly not to the news media or potential opponents. A proper announcement of the campaign is an important step in your campaign process and to do it prematurely will dilute the newsworthiness later as well as allow the opposition time to organize before you even get your effort off the ground. You don't have anything to say until you have done your homework.

B Recruit initial partners and create a working structure. While significant building of the coalition comes after you have done the work of planning, it is also important to have the right mix of people at the table from the beginning of the process. Oftentimes, coalitions will be too heavily weighted towards just one segment of the community and ignore others. At this point you may want just a small "working" group but other perspectives can offer valuable insight and buy-in to the process. Take a moment to consider who else belongs at the table early on. Who could provide valuable insight and work?

It is also important early on to establish an agreed upon working structure. How will decisions be made? Who will assume what roles? What one or two persons will speak for the group to the public or news media if required?

C Assess your community. It is important early on to conduct an assessment of your community and your readiness to embark on a public education campaign. Tools for this purpose are available from the American Cancer Society and Americans for Nonsmokers' Rights. These checklist documents will allow you to assess yourself and your community. It will allow you to take stock of your basic campaign resources such as people, money, time and expertise. It will also allow you to better understand your community. What are the needs? What is the level of readiness for change? The community assessment will look at government, other institutions, and the public including both potential supporters and opponents. When it is completed you will be ready to begin writing a plan.

D Write a plan. The written plan is based on your community assessment. The

process of creating a written plan is crucial because it forces you to identify and reach consensus on what would be otherwise unforeseen issues. Attempts to conduct activities without a clear sense of goals, strategies and tactics often find themselves frustrated and stymied simply because they have not reached agreement on these elements. The benefit is advance agreement on a clear direction. The following steps will help you through the process of creating a written plan.

- **Agree on goals.** Long and short term goals must be mutually agreed upon. A community may decide that a restaurant ordinance is a long term goal and that shorter term goals might include smoke free school campuses or workplaces. It is also useful at this stage to have some discussion of the “deal breakers.” What can be compromised and what cannot?

Possible goals are suggested elsewhere in this book as you look at what other communities have accomplished in Iowa and around the nation. More areas to consider for possible action might include the following:

- Airports
 - Apartments
 - Ballparks
 - Bowling Centers
 - Camps
 - Colleges. (A 2001 study by Harvard University found that 25% of U.S. colleges ban smoking in dormitories.)
 - Community Centers
 - Entertainment Arenas
 - Government Buildings
 - Malls, Stores and Shops
 - Restaurants, Bars and Nightclubs
 - Schools (The Iowa Department of Public Health has published a “Guide For Tobacco Free School Policies” which includes school-specific information and sample school policies.)
 - Workplaces
 - You! Personal advocacy with family, friends and others.
- **Target your audiences.** In order to accomplish your agreed upon goals, who are the key audiences that need to be informed and persuaded? The

goal of identifying target audiences is to break the community into segments so that you can find effective ways to communicate with them. The “trick” here is to look broadly without looking so broadly that the identity of the groups becomes meaningless. Some work can be addressed to the “general public” through the media or activities at public venues such as shopping malls. Other groups, such as older Iowans or youth are best targeted more narrowly. Just as with the rest of the planning process, assistance is available to help you with the selection of target audience to match your own community goals.

- **Pick your strategies.** Strategies are the means you use to reach your targeted groups to achieve your goal. Strategies could include the use of existing organizations, events or communications channels to help you deliver your message to their members. A strategy is like a road map that shows you how to get to your objective. By contrast, a tactic is one step along the way. Strategy is the creative part of a plan.
- **Decide on tactics.** Tactics are individual tasks performed in the context of a larger strategy. A petition drive is an example of a tactic. So is a news release. Generally it is a mistake to spend time working on tactics until you have a plan to see how they fit your strategies and target audiences. Other examples of activities that would usually be considered tactics include:
 - events such as rallies, meetings, etc.
 - grass roots recruitment through petitions and canvassing
 - direct mail, fact sheets or brochures
 - informational displays, table tops
 - telephoning : paid or volunteer
 - letters to the editor
 - news events, radio shows, letters to the editor and other “earned media”. (Technical assistance is available and recommended.)
- **Plan for accountability.** The plan should provide for the assignment of work responsibilities including timelines for the completion of work and a budget. Each of these items are tied to the tactics you have identified. They ensure that work actually gets done in a timely fashion.

E Message development and spokesperson training. As you work on your

strategic plan, you will probably also be working on your message. It is important to develop messages that are simple, relevant and consistent with your plan. These messages will be used throughout the implementation of your plan.

Assistance is available to help you develop appropriate messages that stress the direct and indirect benefits of the clean indoor air action you wish to pursue in your community. In addition to message development, spokesperson training should be obtained for those persons designated to speak publicly on behalf of your group. This training will teach techniques to deliver the message in a simple, concise and effective way. This training is available from the Iowa Attorney General's Office and other state partners.

Spokesperson training will stress several key points:

- A news interview is not a conversation. Limit yourself to those things that you would be willing to see appear in print or on TV.
- An interview should cover no more than two or three main points. Practice them. Learn ways to return to your points from other questions.
- How to build relationships with reporters and columnists.
- How to recognize story elements to help sell your story to the media. These can include: symbols, visuals, media bites, social math, authentic voices or personal stories.

F Coalition building. Hopefully you have been building your coalition as you go, but now is a time to make a concerted effort to go out into the community and to do so very deliberately. Your plan will help you identify possible partners and members.

As you do so, it is important to be aware of the nature of coalitions:

- You should know both the benefits and costs of having a coalition. Coalitions provide much strength from their diversity but they also require work to achieve consensus.
- It is important to identify unifying issues and “deal-breakers,” i.e. provisions that are unacceptable. Articulate the things that bring the group together. And be aware of the things that would cause a member to leave the coalition or not support its product.
- Define roles and responsibilities of each member of the coalition.
- Agree to disagree from time to time but to the extent possible keep those disagreements within the family.

- It is important to have a general consensus on the plan to be employed as well as the structure and decision making process of the organization.
- It is important with a coalition to plan some achievable but significant victories along the way to the ultimate goal. You should recognize and celebrate those victories both to build your team and also to demonstrate momentum for your efforts.
- And when you celebrate those victories, it is very important to distribute credit fairly.

Most community coalitions look something like this:

- an inner core of 4-8 who lead, provide strategy, make day to day decisions and serve as media spokespersons.
- a larger group of 10-50 committed activists who will attend public meetings, make phone calls and perform specific tasks when requested.
- a still larger group of 50-500 supporters who write letters or perform other one-time requests.
- a very large list of persons in the community who have signed petitions or otherwise indicated their support for clean indoor air.
- endorsing organizations or prominent individuals who are willing to share their name with your coalition and have some resources to share.

As this list grows it becomes important to develop a database with key information about each partner and what they are willing to do. As you engage in activities such as petition drives, those names should also be entered in this database for possible future mailings or telephone campaigns.

It is also important to say a word about the importance of volunteers in an effort such as this. The word is “indispensable.” You need to find ways to make it easy to volunteer. It is important to tell volunteers how they fit in the big picture. You must reward them. And you simply must say “thank you” over and over again.

A good strategy is to tap into existing resources instead of re-inventing new ones.

A partial list of potential coalition members or partners might include:

- Public health organizations such as Cancer, Lung and Heart
- Youth - tobacco groups such as JEL or TATU
- Healthcare providers: doctors, dentists, nurses, pediatricians, respiratory therapists
- PTA

- Drug and alcohol prevention organizations
- Cancer survivors
- People with respiratory conditions
- City or county health departments
- Fire and police departments
- Educators, school personnel and school board members
- Employers with smoke free policies
- Employees
- Small business owners with smoke free establishments
- Elected officials
- Faith Community
- Retirees
- Unions
- Environmental groups
- Service Organizations.

It is important to use some caution in approaching groups where you are not certain of their position. You don't want to bring opposition to the table prematurely or tip off opposition to the early stages of work being done.

G Education campaign.

At this stage you are finally ready to begin the educational campaign informing the public about the need for the action you have chosen. Your plan will guide you as to what activities are best for your goals in your community.

H Education / action.

The home stretch. This is where your work comes to fruition. This is where you accomplish the change you seek. By now you have built the community support necessary to achieve your goal.

I Maintenance.

Two thoughts are important as you complete the work.

First, your work could be undone so you must be vigilant in monitoring your work

and the results. Point out its success to maintain the community support you have built.

Second, celebrate your accomplishment and move on to your new goal - whatever it may be.

3 Process Pitfalls. Americans for Nonsmokers' Rights provides a good list of what can kill a community coalition. While this section has been written from a positive, "how to" perspective, it may be useful to conclude by re-visiting some of the most important things not to do. These are the things that will kill a local effort:

- No written plan
- Exclusivity
- Ignoring the tobacco industry and its allies
- Unrealistic time-frames
- Underestimating necessary resources
- Top-down approach
- Policy-maker driven campaign
- Moving too far, too fast.

4 A Final Thought about Planning.

Don't be overwhelmed. All of this takes time, and partners -- both local partners and state partners who can provide important assistance. Various kinds of technical assistance are available from Tobacco Free Iowa, The American Cancer Society, the Iowa Attorney General's Office and the Iowa Department of Public Health. We all want you to ask.

VI Legal Issues

1 Smoking Prohibitions Under Current State Law.

A “Smoking Prohibitions”: Iowa Code Ch. 142B.

In 1978 the Iowa legislature, expressly acknowledging the “toxic effect” of tobacco smoke, enacted a set of restrictions on smoking in certain public places that are still in effect. Although these restrictions do not go nearly as far as most clean air advocates would like, it is helpful to be familiar with the rights and remedies already granted by state law.

“Public Places” Chapter 142B of the Code of Iowa prohibits smoking in public places or public meetings except in designated smoking areas. The term “public place” is defined as “any enclosed indoor areas used by the general public or serving as a place of work” at least 250 square feet in size. The definition also sets forth a long list of places people gather:

- All restaurants with seating capacity greater than 50.
- All retail stores, lobbies, malls, offices, waiting rooms, and other commercial establishments.
- Public transportation within the state.
- Educational and health care facilities.
- Theaters, auditoriums, indoor arenas and meeting rooms.

However, a few places that might otherwise be “public places” under this definition are exempted out, including tobacco stores, a private enclosed office occupied by a smoker, dorm rooms, hotel/motel rooms, and a resident’s room in a health care facility. A similar exception is made for factories, warehouses, and comparable workplaces not usually frequented by the general public, although employee cafeterias *are* covered.

This gives you a sense of what places are covered, but it is not a complete list of what the law considers a “public place.” There is probably no substitute for checking the Smoking Prohibitions law for yourself to see what is and is not covered. Chapter 142B is barely more than one page of the Iowa Code, and is worth reviewing.

“Public Meetings” A “public meeting” is any in-person gathering of the members of a governmental body.

“Designated Smoking Areas” Smoking is prohibited in covered “public places” and

“public meetings,” *except* in “designated smoking areas.” The person who controls a public place (or public meeting) *may* designate a smoking area, unless smoking is prohibited by another law or ordinance (for example, by a city ordinance banning smoking in that public place). Note that the person in control of a public place is never *required* to designate a smoking area. Under Iowa law, there is no general right to smoke in public places, and those in control of public places may voluntarily ban smoking.

In public places in which smoking areas are designated, existing physical barriers and existing ventilation systems are to be used to minimize what the Code of Iowa calls “the toxic effect of smoke” in non-smoking areas. A bar is the only public place that may be designated as a smoking area in its entirety.

“Signs Posted” The person in control of a public place or public meeting is required to make reasonable efforts to post signs indicating smoking and non-smoking areas. In addition, the statement “*Smoking prohibited except in designated areas*” must be posted on all major entrances.

“Enforcement” Iowa law provides for two ways of enforcing the state smoking prohibitions. First, local law enforcement authorities may “ticket” violators, similar to the way things work with traffic violations. Tickets can be given to a person who smokes in a prohibited area, or to a person who controls the public place but fails to post the required signs.

A person whose violation results in a ticket has to pay a civil penalty of \$25. A person who fails to pay the penalty may be summoned to appear before a magistrate. A person who “willfully” fails without good cause to appear before the magistrate commits a simple misdemeanor (a crime) and is subject to immediate arrest. The penalty for a simple misdemeanor is a fine of between \$50 and \$500 and may also include a term in jail of up to thirty days.

The other means of enforcing the state smoking prohibitions applies only to those public places inspected by the Iowa Department of Inspections and Appeals, and applies only to the requirement that signs be properly posted. Facilities inspected by that Department include restaurants, grocery stores, hotels and motels, hospitals, and certain other facilities. The Department of Inspections and Appeals will follow up on complaints they receive by contacting those in charge of the facility and requesting compliance. Complaints may be directed by letter or phone to: Department of Inspections and Appeals; Lucas Building; 321 East 12th Street; Des Moines, Iowa 50319. Phone: (515) 281-3642.

Of course, initiating formal complaints may be not be necessary to obtain compliance. If

you become aware of a violation in the form of a person smoking in a non-smoking area, you may first wish to consider such informal remedies as gently bringing it to the violator's attention or asking the manager to handle the situation. Similarly, violations of the requirements regarding the posting of signs may first be brought to the attention of the business owner, who may welcome the informal opportunity to come into compliance with the law.

B Smoking restrictions in connection with child care: Iowa Code section 237A.3A(5)

Smoking is not permitted in a "child development home" during its hours of operation in any area of the home which may be used by the children receiving child care. A "child development home" is a residence or other establishment that is registered with the state as a provider of child care under certain conditions and standards. Rules implementing this smoking restriction went into effect in December, 2002.

To find out whether a particular child care operation is registered as a "child development home," contact the local office of the Department of Human Services (DHS). Reports of violations of this smoking restriction should also be directed to the local DHS office. All such reports are to be investigated by DHS, and repeat violations may result in revocation of the child care operation's registration.

C Other remedies

Of course, compliance with the state law smoking prohibitions outlined above does not necessarily ensure that employees and others will be free from all adverse effects of secondhand smoke. Secondhand smoke may still be a serious problem in places that are in compliance with these laws or are exempted from their coverage. It is therefore important to know what further remedies may be available. Such other remedies include:

- Requesting the cooperation of the business owner. Many business owners will respond positively to requests from customers, employees, or other concerned citizens. This also presents an opportunity to educate the owner about the hazards associated with secondhand smoke. It is a good place to start.
- Contacting the National Institute for Occupational Safety and Health (NIOSH), a part of the Centers for Disease Control and Prevention. NIOSH conducts workplace Health Hazard Evaluations which focus among other things on the quality of the indoor air, including the effects of tobacco smoke, and provides expertise in reducing such hazards. Because NIOSH's resources are limited, it cannot conduct site visits in response to all requests for intervention. However, particularly in connection with large workplaces

employing many people, NIOSH may be an available resource: phone (800) 356-4674.

D Other legal issues relating to exposure to secondhand smoke.

As the hazards of exposure to secondhand smoke have become increasingly well known, legal issues have arisen in various other contexts. These issues may raise economic concerns for employers who do not provide a smoke-free environment. For instance:

- Diseases caused by exposure to secondhand smoke in the workplace may be subject to benefits under Iowa's Workers' Compensation laws (see generally Iowa Code chapters 85 and 85A). Although this coverage issue does not appear to have arisen yet in Iowa, courts in states with comparable laws have approved secondhand smoke claims for such conditions as pulmonary disease, cancer, and aggravation of bronchial asthma.
- If health risks associated with secondhand smoke in the workplace prompt an employee to resign, that resignation may under certain circumstances be considered to have been for "good cause" for purposes of qualifying for unemployment benefits (see generally Iowa Code section 96.5(1)). As with workers' compensation, this coverage issue has evidently not yet been decided in Iowa, but courts in states with comparable unemployment compensation laws have granted benefits in some such circumstances.
- The Americans With Disabilities Act (ADA) requires that employers and business owners make reasonable modifications in their policies and practices for employees and customers with major disabilities. (See 42 U.S.C. section 12182) Disabilities triggering this requirement may include such smoke-sensitivity disabilities as smoke allergies or asthma, if severe enough. Some courts have ruled that application of this law may require smoking restrictions, or even a total ban on smoking under certain circumstances, in order to accommodate persons with such disabilities.

2 Preemption and Iowa Law.

[Notation regarding Iowa Supreme Court preemption case: On May 7, 2003 the Iowa Supreme Court ruled in the case of James Enterprises, Inc., et al. v. City of Ames that Iowa communities are preempted from adopting ordinances that are inconsistent with the smoking prohibitions set forth in Iowa Code Chapter 142B. This ruling, and the current scope of the smoking restrictions in Chapter 142B, are further explained within this report. As a result of the Iowa Supreme Court's ruling, the model ordinance contained in this report cannot be used until such time as the Iowa legislature changes state law to allow communities to adopt stronger

restrictions on smoking in those “public places” listed in Chapter 142B. Please note that the ruling does not restrict other important clean indoor air activities, such as educational initiatives, advocacy for totally smoke-free schools or other publicly-owned buildings, or efforts to promote clean indoor air policies by individual private businesses.]

“Preemption” refers to the power of state government to forbid localities from passing ordinances relating to certain subject areas. If, for example, the state legislature wished to be the sole source of standards relating to the regulation of obscenity (which is in fact the case), the legislature may pass a law prohibiting cities and counties from passing any local ordinances attempting to regulate obscene materials.

In Iowa, there is an existing state law regulating smoking. It can be found in the Code of Iowa, Chapter 142B. Generally speaking, Iowa’s tradition of “Home Rule” means that cities and counties may build on state laws through local ordinances intended to shape the law to local needs, desires, and conditions. The state law may set one standard of conduct relating to public safety, for example, but a given locality may feel that an even higher standard is appropriate for the protection of its local citizens, and accordingly set a higher standard by ordinance. This is perfectly acceptable, unless the state is deemed to have “preempted” such local authority.

In the specific context of controlling secondhand smoke, the Iowa Attorney General issued a formal opinion in November of 2000 indicating that state law did not preempt local ordinances. An Attorney General’s Opinion is not the final word on the subject, but it is given respectful consideration by courts addressing the same issue. Note that the Attorney General’s Opinion addressed the ability of a locality to restrict smoking in a “public place” as defined in the state law (Chapter 142B). The Opinion did not address whether or not a locality could adopt a modified definition of “public place.”

When the City of Ames passed the first Iowa ordinance increasing the secondhand smoke protections beyond those set forth in state law, some Ames restaurants, with the financial backing of Philip Morris, maker of Marlboro cigarettes, sued the city. The lawsuit claimed that the state law on Smoking Prohibitions preempted localities from passing further restrictions, and that the Ames ordinance should therefore be ruled invalid.

In February 2002 an Iowa District Court judge sided with the city against Philip Morris and the restaurants. (It is noteworthy that the district court proceeding lasted only a few months, and was resolved quickly on the basis of legal arguments, without a costly trial.) The judge ruled that the Ames ordinance was valid, and that there was no preemption. That ruling has been appealed, however, and the Iowa Supreme Court is expected to issue a ruling some time in 2003, finally resolving the matter. Communities would be well-advised to consider the result of this ruling.

As of the publication of this report, the best available legal authority (the District Court’s ruling, supported by the Iowa Attorney General’s Opinion) is that localities are not preempted, and may pass ordinances extending the state law protections against secondhand smoke. However, it is still important that localities make every effort to ensure that local ordinances mesh well with the particular requirements of state law.

Even if it is acceptable as a general matter for a local authority to adopt additional protections, in effect “raising the bar” set by the legislature in a particular subject area, it is still necessary that the local ordinance not create an outright inconsistency with state law, or attempt to make changes that undo what the legislature had done. The model ordinance provided in these materials represents an effort to set higher local standards for secondhand smoke without running afoul of the provisions in the state law. This approach makes it more likely that there will be no future legal challenges when cities and counties try to establish enhanced secondhand smoke protections to safeguard the health of the children, workers, and other citizens of their communities.

3 A Model Ordinance and Discussion of Provisions.

[See notation on Iowa Supreme Court preemption case on page 38.]

A MODEL ORDINANCE ELIMINATING SMOKING IN RESTAURANTS AND CERTAIN OTHER PUBLIC PLACES

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually; and

WHEREAS, the Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997); and

WHEREAS, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer; and

WHEREAS, the Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability; and

WHEREAS, the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; and

WHEREAS, a significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function; and

WHEREAS, smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, and increased health insurance rates; and

WHEREAS, smoke-filled workplaces have given rise to workers' compensation claims, unemployment benefit claims, and other liability claims related to employee exposure to secondhand smoke; and

WHEREAS, tobacco smoke, discarded smoking materials, cigarette and cigar burns, and ash stains on merchandise and fixtures impose economic costs on businesses in the form of damaged property and increased maintenance and custodial expenses. Such increased costs of doing business are ultimately reflected in higher consumer prices for smokers and nonsmokers alike; and

WHEREAS, in 1999, the most recent year for which such data is currently available, 203 Iowa businesses suffered fires attributable to smoking; such fires damaged property, threatened public safety, and contributed to increased insurance costs; and

WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact on such businesses after enactment of laws requiring workplaces to be smoke-free. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety; and

WHEREAS, businesses wishing to eliminate the health risks to customers and employees associated with secondhand smoke as well as the threats to people and property associated with

fires caused by smoking may nevertheless be reluctant to do so out of concern that they may be placed at a competitive disadvantage in relation to comparable businesses in the same locale;

THEREFORE, the _____ finds and declares that the purpose of this Ordinance is to preserve and improve the health, comfort, and environment of the people of _____ by further limiting exposure to secondhand smoke, to guarantee the right of nonsmokers to breathe smoke-free air by recognizing that the need to breathe smoke-free air shall have priority over the desire to smoke, and to preserve the property, health and lives of the people of _____ by reducing or eliminating the damage and injury caused by fires attributable to tobacco use.

SECTION 1 DEFINITIONS:

- A BAR means an establishment or portion of an establishment where one can purchase and consume alcoholic beverages as defined in Iowa Code section 123.3(4), but excluding any establishment or portion of the establishment having table and seating facilities for serving of meals to more than fifty people at one time and where, in consideration of payment, meals are served at tables to the public.
- B PUBLIC MEETING means a gathering in person of the members of a government body, whether an open or a closed session under Iowa Code Chapter 21.
- C SMOKING means the carrying of or control over a lighted cigar, cigarette, pipe or other lighted smoking equipment.
- D PUBLIC PLACE means any enclosed indoor area used by the general public or serving as a place of work containing two hundred fifty or more square feet of floor space, including, but not limited to, all restaurants with a seating capacity greater than fifty, all retail stores, lobbies and malls, offices, including waiting rooms, and other commercial establishments; public conveyances with departures, travel, and destination entirely within this state; educational facilities; hospitals, clinics, nursing homes, and other health care and medical facilities; and auditoriums, elevators, theaters, libraries, art museums, concert halls, indoor arenas, and meeting rooms. "Public Place" does not include a retail store at which fifty percent or more of the sales result from the sale of tobacco or tobacco products, the portion of a retail store where tobacco or tobacco products are sold, a private, enclosed office occupied exclusively by smokers even though the office may be visited by nonsmokers, a room used primarily as the residence of students or other persons at an educational facility, a sleeping room in a motel or hotel, or each resident's room in a health care facility. The person in custody or control of the facility shall provide a sufficient number of rooms in which smoking is not permitted to accommodate all persons who desire such rooms.

- E EMPLOYEE means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services to a non-profit entity.
- F RESTAURANT means a public place where food is prepared or served for consumption on the premises.

SECTION 2 APPLICATION TO [COUNTY or CITY]-OWNED FACILITIES:

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the _____[city or county] of _____, shall be subject to the provisions of this Ordinance.

SECTION 3 PROHIBITIONS:

- A A person shall not smoke in a public place or a public meeting.
- B A person having custody or control of a public place or a public meeting shall not designate any part or portion of that place or meeting site as a smoking area pursuant to Section 142B.2(2) of the Code of Iowa.

SECTION 4 EXEMPTIONS:

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Section 3:

- A Private residences, except to the extent expressly regulated by Iowa Code Ch. 142B or another provision of state or federal law relating to smoking.
- B Bars as defined by Section 1A, provided however that in order for a portion of an establishment to constitute a bar for purposes of this exemption it must be separately enclosed and have ventilation separate from other portions of the establishment, if smoking is prohibited in such other portions.
- C A room or hall the entirety of which is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place, provided however that smoking is prohibited on elevators.

- D Factories, warehouses, and similar places of work not usually frequented by the general public, except that an employee cafeteria in such place of work shall have a designated non-smoking area; provided however that smoking is prohibited on elevators.
- E Public places that are owned or controlled by a governmental entity that is not subject to the authority of this Ordinance.
- F Restaurants with sales of alcoholic beverages sold for consumption on premises which exceed ____ % of gross receipts for food, beverages and alcoholic beverages sold for consumption on the premises, as shown by records made in the regular course of that restaurant's business. To obtain this exemption, a restaurant must file with the _____ [city/county office] an affidavit of the person in custody and control of the restaurant attesting that the restaurant has monthly sales of alcoholic beverages, as defined by Section 123.3(4) of the Code of Iowa, sold for consumption on the premises that, on average over a period of twelve consecutive calendar months ending no more than six weeks prior to the date of the affidavit, amount to more than ____ % of the average monthly gross revenue of the restaurant for food, beverages and alcoholic beverages sold for consumption on premises during the same period, as shown by records made in the regular course of that restaurant's business. The affidavit shall state the actual percentage of such sales. Such records shall be made available to the _____ for inspection and review upon request. If such records are not made available for inspection and review, or if such inspection and review do not support the exemption, smoking in and designation of part or portions of that restaurant as a smoking area shall not be permitted. The form of affidavit for obtaining or renewing such an exemption shall be available at the office of _____. An affidavit for obtaining or renewing an exemption expires ____ months after it is filed, but the exemption may be renewed and continue in effect if an updated affidavit is filed during the thirty day period preceding the scheduled expiration.

SECTION 5 RESPONSIBILITIES OF PERSONS IN CUSTODY OR CONTROL:

- A A person having custody or control of a public place or a public meeting at which smoking is prohibited by this Ordinance (a "covered location") shall cause signs to be posted within the facility advising patrons of the smoking prohibition. In addition such person shall conspicuously post the statement "Smoking prohibited" on all major entrances to, and shall remove all ashtrays and other smoking paraphernalia from, such covered location.
- B No person having custody or control of a covered location shall allow smoking in such location. A person having custody or control of a covered location shall ask any person smoking at such location to refrain from smoking, and if the person does not promptly refrain from smoking shall ask the person to leave. If the offending party refuses to leave, the person having custody or control of the location shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a

trespasser.

- C A person having custody or control of a public place that is subject to subsection 4(B), (C), (D) or (F) of this Ordinance shall make reasonable efforts to accommodate employees who wish to minimize their exposure to tobacco smoke.

SECTION 6 REASONABLE DISTANCE:

Smoking is prohibited within a reasonable distance of 15 feet outside entrances, exits, windows, and ventilation systems of an enclosed area where smoking is prohibited, so as to ensure that tobacco smoke does not enter such area, provided however that this prohibition does not apply to a person who is merely passing by.

SECTION 7 NONRETALIATION:

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Ordinance or reports or attempts to prosecute a violation of this Ordinance.

SECTION 8 ENFORCEMENT:

- A Enforcement of this Ordinance shall be implemented by _____, or his or her designee.
- B Notice of the provisions set forth in this Ordinance shall be given to all applicants for a liquor license in _____.
- C Any citizen or other affected person who desires to register a complaint under this Ordinance may initiate enforcement with the _____.
- D The _____ Department of Health and the Fire Department shall require, while a covered location is undergoing otherwise mandated inspections, a “self-certification” from the person having custody or control of such location that all requirements of this Ordinance have been complied with.
- E In addition to the remedies provided by the provisions of this Section, the _____ [Department of Health or City Manager or County Administrator] or any person aggrieved by the failure of a person in custody or control of a covered location to comply with the

provisions of this Ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

SECTION 9 VIOLATIONS AND PENALTIES:

- A It shall be unlawful for a person having custody or control of a covered location to fail to comply with any of the provisions of this Ordinance at such location.
- B It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Ordinance.
- C Any person who violates any provision of this Ordinance shall be guilty of an infraction punishable by:
 - 1 A fine not exceeding one hundred dollars (\$100) for a first violation.
 - 2 A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 - 3 A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of preceding violation.

SECTION 10 LIBERAL CONSTRUCTION:

This Ordinance shall be liberally construed so as to further its purposes.

SECTION 11 SEVERABILITY:

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 12 EFFECTIVE DATE:

This Ordinance shall take effect _____ days after the date of its adoption.

COMMENTS: [See notation on Iowa Supreme Court preemption case on page 38.]

“Public places” and restaurants: This model has the significant advantage of tracking the definition of “public place” contained in the state law regarding smoking prohibitions (Iowa Code Ch. 142B). This removes a possible basis for a legal challenge by those claiming that the local ordinance is preempted because it is inconsistent with state law. However, this approach has the disadvantage of excluding restaurants with seating capacity of fifty or fewer from the smoking prohibition (in fact, such small restaurants are free to designate the entire restaurant as a smoking area). Both Iowa City and Ames have adopted this approach of tracking the state law definition of “public place,” thereby excluding such small restaurants from the smoking prohibitions under the ordinance.

The above model adopts the definition of restaurant set forth in Iowa City’s ordinance: A public place where food is prepared or served on the premises. There are at least three alternative approaches. (1) The model ordinance developed by Americans For Nonsmokers Rights (“ANR”) is similar to the Iowa City approach. The ANR model defines a restaurant as an “eating establishment” that gives or sells food; it expressly covers facilities in which food is prepared for serving elsewhere; and it includes a list of examples (including, among others, coffee shops, sandwich stands, and school cafeterias). (2) The Ames ordinance defines restaurant by referring to the definition of “food establishment” in Iowa Code section 137F.1(8). (3) Yet another approach would be to import language from the definition of bar in Iowa Code section 142B.1(1), and define a restaurant as any establishment or portion of the establishment where, in consideration of payment, meals are served at tables to the public.

Restaurants that serve alcohol: The model proposes the use of a percentage definition to distinguish between those food-and-alcohol establishments where smoking is prohibited altogether (places more in the nature of restaurants than bars) and those where smoking areas may be designated (more in the nature of bars than restaurants). A percentage approach has been used in both Iowa City and Ames. This is in contrast to the approach embodied in the ANR model. Under that approach, a bar is any place where the serving of food is “only incidental.” The percentage definition is more precise, more compatible with the rest of the Iowa code and avoids future disputes over the exact meaning of “incidental.” The ANR approach is said to have worked in other jurisdictions without some of the complications of a specified percentage, i.e., restaurants that are near the percentage threshold manipulating their menus to serve more alcohol and thus escape the clean indoor air provisions. National experts on tobacco control appear to be divided on this issue. Ultimately it is up to the community to decide. The Iowa Attorney General’s Office is available to further discuss this issue with communities and provide support to either approach.

Iowa City’s ordinance provides that if alcohol accounts for fifty percent or less of a food establishment’s gross receipts for food, alcoholic beverages and other beverages, that establishment is subject to the smoking ban; if such alcohol receipts are more than fifty percent, the establishment is not subject to the ordinance’s smoking ban. [See the City Code of Iowa City, section 6-7-5] After the ordinance is in effect for two years, the percentage of alcohol sales

necessary to receive the exception increases to 65%. The Iowa City ordinance sets out a detailed procedure for establishing gross revenues involving the filing of an affidavit, much of which is adopted by the above model. An alternative approach to establishing the relevant revenue figures might be to require the business to submit the certification of an accountant. Although that requirement would enhance reliability, it would also increase the costs of compliance.

The Ames ordinance applies its time-of-day smoking restrictions to food establishments, but exempts a food establishment serving alcohol if the establishment's food sales account for less than ten percent of its total sales revenue. An Ames food establishment seeking to qualify for the less-than-ten-percent exemption is directed to file with the city clerk a sworn affidavit attesting to the relevant sales volumes.

Places of work: The state law's restrictions on smoking relate to "any enclosed indoor area used by the general public or serving as a place of work containing two hundred fifty or more square feet of floor space," but expressly exclude "factories, warehouses, and similar places of work not usually frequented by the general public ...". The Ames ordinance adopts the state law definitions and exemptions, and by doing so applies its smoking prohibitions to all workplaces that are not expressly excluded by the state law. [See the Municipal Code of the City of Ames, sections 21A.101 & 205] The above model embodies that same approach to covering places of work. The Iowa City ordinance applies exclusively to covered food establishments. [Section 6-7-2]

Exemptions and Exclusions: The Ames ordinance includes exemptions relating to truck stops [21A.202] and bowling alleys [21A.203], as well as provisions mirroring the Iowa Code's exemptions for rented halls, and for factories, warehouses, and similar places of work not usually frequented by the general public [21A.204 & 205]. Whether a given locality should consider exemptions for bowling alleys, highway truck stops, or other special venues is a matter for local deliberation, balancing the unique circumstances of some establishments against the need to apply the prohibition fairly within a community.

The Iowa City ordinance creates a temporary one year exception to the smoking prohibition for food establishments that are new or are undergoing a change of operations, if the percentage of alcohol sales is reasonably expected to reach the 50% (or, later, 65%) exemption level. To obtain the temporary exception, the required affidavit must detail the relevant circumstances and the anticipated percentage of sales of alcoholic beverages. Only one such temporary exception is available for a given establishment. [Section 6-7-5]

Note that the bar portion of an establishment is exempt only if separately enclosed and ventilated. Some ordinances in other states include specific standards for what constitutes adequate separation and ventilation for these purposes. Iowa localities may wish to consider whether specifying such standards would be desirable in their circumstances.

Operations owned or controlled by governmental entities that would not be subject to the

locality's ordinance are expressly exempted by Section 4E, to ensure that a local ordinance is not interpreted to create a conflict with, for example, a state or federal regulation or policy.

Smoking outside covered establishments: The Ames ordinance extends its smoking restrictions to all points within fifteen feet of a covered establishment's main entrance and exit. [Section 21A.301] The above model adopts that approach, while exempting from coverage smokers who might simply be passing by, for example, on a public sidewalk. The Iowa City ordinance does not address outdoor smoking near entrances and exits. Note that the state law definition of "public place" is confined to various "enclosed indoor" areas. This raises the question of whether a local ordinance should address only indoor smoking. This is an open question. However, the model does address smoking just outside of doorways and windows, on the assumption that effective regulation of enclosed spaces must permit reasonable measures to prevent smoke from entering.

Application to outdoor seating areas: The Ames ordinance expressly covers outdoor seating areas. [Section 21A.500] Neither the Iowa City ordinance nor the ANR model contains such a prohibition, but the ANR model contains a "reasonable distance" provision requiring that any outdoor smoking occur only where smoke will not enter the enclosed area. [ANR Model, section 1006]

Duty not to allow smoking in prohibited areas: The ANR model requires those in control of establishments (including employees) to inform persons in violation of the ordinance of the pertinent provisions. [Section 1011E] The Iowa City ordinance requires covered proprietors to make reasonable efforts to prevent smoking by posting appropriate signs. [Section 6-7-4] The above model mandates that the owner or other person in charge handle the offending conduct in a manner comparable to the manner in which business owners typically handle persons who create disturbances.

Enforcement: The above enforcement provision largely tracks the approach embodied in the ANR model. The Ames and Iowa City ordinances simply declare violations of the ordinance to constitute "municipal infractions" subject to the same police enforcement as other such infractions. [Sections 21A.600 & 6-7-6, respectively]

Penalties: The above ordinance establishes graduated penalties for repeat violations which apply to individual violators (smokers) and businesses alike. Ames' ordinance establishes a \$25 penalty for individuals who smoke where it is not permitted, and penalties of \$500 (first offense) and \$750 (subsequent offenses) for other violations (for example, a business's failure to post required signs). Iowa City's ordinance establishes a \$25.00 penalty for individuals who smoke where it is not permitted, and penalties of \$100.00 (first offense), \$250.00 (second offense) and \$500.00 (third and subsequent offenses) for other violations. Note that state law establishes a \$25.00 penalty for all violations, although failure to pay could ultimately lead to arrest and a simple misdemeanor charge. See Iowa Code sections 142B.6 and 805.8C(3).

In general, it should be noted that enforcement has not been a problem in communities where ordinances have been adopted. Generally, businesses voluntarily come into compliance, and smokers voluntarily refrain from smoking where it is not allowed in deference to other customers.

City/county owned facilities: A city or county may, as the owner and custodian of government buildings and vehicles, exercise its prerogative to declare such enclosures smoke-free consistent with Iowa Code Chapter 142B. This ordinance follows the ANR approach by making that declaration, although neither the Ames nor Iowa City ordinances do so.

Non-retaliation: This protection against retaliation is contained in the ANR model, but not in the Ames or Iowa City ordinances.

V Economic Issues

1 The Fear of Economic Loss Through Lost Business or Tourism.

Restaurants and the hospitality industry claim that the passage of a smoke-free ordinance will result in a loss of sales, jobs and tourism. **There is no scientific data to show a negative impact.**

Every study done in a **scientific** manner shows no decline in restaurant sales. The studies that do show a decline in restaurant sales lack scientific validity and the majority of them have been sponsored by the tobacco industry or one of its front groups. Remember that these are the same companies whose CEOs stood before Congress and swore tobacco was not addictive.

Typically, the tobacco industry-sponsored surveys will ask restaurant owners their feelings, views or opinions about business trends since adoption of an ordinance. These numbers will then be converted into some kind of estimate of economic loss. [*Economic Impact Studies Circulated by the Tobacco Industry, Americans for Nonsmokers Rights Foundation, January, 2000.*]. Consumer Reports reported on one such survey in Bellflower, California. The article, entitled “Self-Serving Surveys: The 30% Myth” says that in that community an informal survey of restauranteurs became a formal report showing the alleged economic impact of a smoking ban. Both were sponsored by groups connected to the tobacco industry. “The figure and surveys are far less scientific than they have been made to appear.” [*Consumer Reports, May, 1994: 59(5): 316-310*]

- Independent, objective and peer-reviewed studies from across the country have demonstrated that there is NO negative impact on restaurant sales or employment from smoke-free restaurant laws. Studies indicate that the impact does not adversely affect, and may increase, business.
- Businesses are not adversely affected by smoke-free ordinances. Numerous surveys and studies have been conducted in communities that have implemented smoke-free ordinances. In every case, the businesses involved experienced no loss in sales or customers whatsoever. One survey published in the January 1999 issue of the *Journal of Public Health Management and Practice* shows that bars and restaurants implementing smoke-free policies would likely see an increase in business. And a survey published in the December 1999 issue of the *Journal of the American Medical Association* showed that communities implementing smoke-free ordinances might even see an increase in tourist business.
- Iowa City experience: A study of the economic consequences of the Iowa City ordinance shows that “during 2002, Coralville, Iowa (which does not have a smoke-free ordinance)

has experienced a greater net loss of restaurants than in the neighboring community of Iowa City (where a smoke-free ordinance was introduced in March, 2002). *[Megan Sheffer, Examination of the Trends in Restaurant Turnover in Coralville and Iowa City from 1997 to 2002, Global Health Studies Conference, University of Iowa, Iowa City, Iowa, November 2002]*

- Ames experience: On August 1, 2002, the one year anniversary of the adoption of a municipal smoking ordinance in Ames, Iowa, local leaders there reported the following unscientific observations on restaurant activity in the community. (This information is not researched based but is included in this report because of it's Iowa relevance.) None of the 8 restaurants challenging their ordinance had closed or gone bankrupt. One of the 8 had purchased a new site. Four restaurants had closed since the ordinance went into effect, but none appeared to be ordinance related. During the same time, 5 new restaurants opened. Five other restaurants had voluntarily gone smoke free all day *[Ames Tobacco Task Force, Co-Chair George Belitsos 515-233-3141.]*
- Cedar Rapids Experience: The passage of a ban on smoking in Taxi cabs in Cedar Rapids did not result in economic loss as critics feared. *[Editorial, Cedar Rapids Gazette May 3, 2002]*
- In the first year after the 1995 statewide ban on smoking in bars and restaurants, California saw a 6% growth in restaurant and bar revenue, resulting in an extra \$370 million to the state's economy. *[Journal of the American Medical Association, May 26, 1999.]* Sales tax revenue from restaurants and bars increased from \$25 million in 1995 to \$35 million in 2000. *[California Department of Public Health.]*
- There is no reliable scientific evidence that the enactment or enforcement of smoke free policies or ordinances causes a reduction in revenue, customers or customer satisfaction. Sales tax data consistently demonstrate that ordinances restricting smoking in restaurants have no effect on revenues. (Glantz, 1999) Tax data are more reliable than total restaurant sales because they control for fluctuation in both the general and restaurant economy.
- A study that reviewed sales tax data for 15 cities with smoke-free restaurant ordinances found that smoke-free ordinances do not adversely affect either restaurant or bar sales. *[Gleason S, Smith L. (1997). The effects of ordinances requiring smoke-free restaurants and bars on revenues: A follow-up. American Journal of Public Health; 87; Gleason SA, Smith L.A. (June 3, 1997) Response to March 1997 Critique of "The Effect of Ordinances Requiring Smoke-Free Restaurants on Restaurant Sales.]*
- Taco Bell banned smoking in all of its 3,300 company owned restaurants and expects the other 100 franchise stores to go smoke-free. This action was based, in part, on a year long survey that found that 40% of smokers and 84% of nonsmokers found smoking in fast food restaurants to be offensive. *[PepsiCo's Taco Bell Bans Smoking i its Restaurants (3/15/94) Wall Street Journal.]*

What does tobacco industry itself say? David Laufer in a 1994 Philip Morris presentation said: "...the economic arguments often used by the industry to scare off smoking ban activity were no longer working, if indeed they ever did. These arguments simply had no credibility with the public, which isn't surprising when you consider that our dire consequences in the past rarely came true." [Laufer, D. , "Draft 7/8/94 CAC Presentation#4," Philip Morris (pm) Web Site, Bates Nos. 2041183790, p. 28, July 8, 1994.]

2 Advantages to Businesses of Becoming Smoke-free.

- There are many cost savings associated with smoke-free workplace policies. These savings include those associated with fire risk, damage to property and furnishings, cleaning costs, workers' compensation, disability, life insurance, absenteeism and productivity losses. [Kristen Mn. "Economic issues related to smoking in the workplace," *New York State Journal of Medicine*. 1989 as quoted in American Cancer Society, "Economic Benefits of Smoke-Free Workplaces"]
- In a recent report, the EPA estimated that a nationwide, comprehensive clean indoor air law would save \$4 to \$8 billion per year in operational and maintenance costs of buildings. [U.S. Environmental Protection Agency. *The Cost and Benefits of Smoking Restrictions: An Assessment of the Smoke-free Environment Act of 1993*. as quoted in American Cancer Society, "Economic Benefits of Smoke-Free Workplaces."]
- According to the American Council on Life Insurance, employers spend an average of \$300 extra per smoker each year on insurance claims. Smokers use medical benefits 50% more than nonsmokers. [Connelly, Eileen. "The Price of Smoking," January 2000 as quoted in American Cancer Society, "Economic Benefits of Smoke-Free Workplaces."]
- On average, smokers are absent from work 50 percent more and take 5.5 more days off per year than nonsmokers. [Action on Smoking and Health, "Smoking in the Workplace Costs Employers Money." [Http://ash.org](http://ash.org). as quoted in American Cancer Society, "Economic Benefits of Smoke-Free Workplaces"]
- Premiums for life, health and fire can be significantly lower for smoke free businesses. [Action on Smoking and Health, "Smoking in the Workplace Costs Employers Money." [Http://ash.org](http://ash.org). as quoted in American Cancer Society, "Economic Benefits of Smoke-Free Workplaces"]
- There may be reduced liability exposure for smoking-caused disease and disability. After publication of the U.S. Environmental Protection Agency report on secondhand smoke and lung disease, the National Association of Restaurants advised members that they could be liable for disabilities of employees attributable to secondhand smoke exposure. [Memorandum from Richard E. Marriott, President of the National Restaurant Association, to Association members, 2/12/93.]

Evaluation: The Iowa Attorney General's Report on Secondhand Smoke

Your evaluation is most appreciated. Please reply in whatever form is most convenient to you. Copy this page and mail or fax to us at the address below. Or just send an email and reference the questions by number with your response.

- 1 How would you rate the effectiveness of this material in helping your community effort? Please rate on a 0-5 scale (with 5 being the highest) and also include your comments.

- 2 One goal of this material was to draw together a large volume of information and material into one relatively concise document. How did we do? Please rate on a 0-5 scale (with 5 being the highest) and also include your comments.

- 3 Another goal of this material is to make legal and health information relating to secondhand smoke as Iowa-specific as possible. Did we succeed? Please rate on a 0-5 scale (with 5 being the highest) and also include your comments.

- 4 What would you have liked to see included in this report that you did not see?

- 5 What other kinds of support and assistance from the Iowa Attorney General's Office would be helpful to you.

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